Lobbyists at home in another house

Groups take schmoozing down the street

By Jim Drinkard
The Associated Press

WASHINGTON — The gray brick, two-story town house on a shaded street just three blocks from the Capitol is a busy place this election year.

Several times a week, lawmakers stroll over from their offices at breakfast, lunch or the cocktail hour. Republicans and Democrats pass pots of geraniums on the front porch and enter through the oak front door.

They're there to raise a little money, thanks to some lobbyist friends.

The host is United Parcel Service, whose political action committee doled out $3.5 million to federal candidates over the past three years — more than any other special interest PAC. The company multiplies its clout by maintaining the private town house to host fund-raisers and hold quiet talks with those it is seeking to influence. With the conversation comes a check for the lawmaker, for as much as $4,500.

"It's our way to have a more personal chance to spend time with the member," UPS spokeswoman Gina Ellrich says. "It allows a chance to talk about our business with a member, and for them to get a chance to understand it in a different setting. It's convenient."

While it is not talked about openly, at least a dozen companies or lobbyists maintain similar facilities.

The others include Beneficial Finance; the lobbying and law firm of Williams & Jensen; sporting goods manufacturer Nike; lobbyist Tommy Boggs; and the state of Florida. Florida's Victorian house is also used by corporate sponsors such as AT&T and CSX.

The practice has been going on quietly for a long time. But such events are likely to become more common, lobbyists say, in light of stricter gift rules that prevent another form of schmoozing: the lobbyist-paid lunch or golf outing.

If lobbyists want an away-from-the-office audience now, they must do it in the context of a political fund-raiser.

Rep. Paul Gillmor, R-Ohio, went to the UPS town house on March 5 for a fund-raising breakfast. "We discussed things of interest to their industry. You make small talk, get to know somebody. ... They made a contribution," he says.

Gillmor, who sits on the House Commerce Committee, received a $4,000 donation. His committee handles many issues vital to UPS.

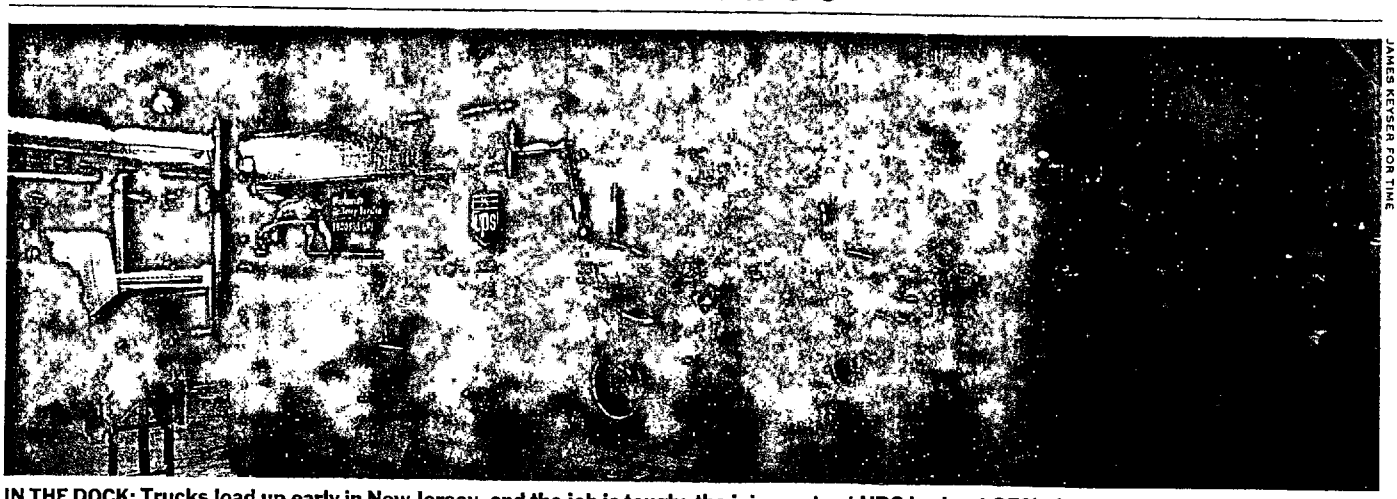
At about the same time, UPS also remembered Gillmor's wife, Karen, donating $4,000 in February to her re-election campaign for the Ohio state Senate.

The company also gave to other state legislative candidates in Ohio, but Karen Gillmor stood apart — her contribution was more than 10 times the average. Gillmor denies any connection: "She does her campaign, I do my campaign. Some of our contributors are the same, most are different."

Others recently invited by UPS include Sen. Kent Conrad, D-N.D.; Rep. Jack Reed, D-R.I.; Sen. John D. Rockefeller, D-W.Va.; Rep. Jimmy Hayes, R-La.; Rep. Robert Franks, R-N.J.; Rep. Frank Mascara, D-Pa.; Rep. Dan Burton, R-Ind.; Rep. Nick Rahall, D-W.Va.; Rep. Pat Roberts, R-Kan.; and Rep. Bud Shuster, R-Pa., chairman of the House Transportation Committee.

By Tyler Mallory, AP

Setting up shop: The United Parcel Service uses this town house to meet with lawmakers. UPS gave $3.5 million to federal candidates over the past three years.



JAMES KEYSER FOR TIME

IN THE DOCK: Trucks load up early in New Jersey, and the job is tough: the injury rate at UPS is about 25% above the industry average

Hauling UPS's Freight

The largest U.S. delivery company is also the biggest corporate spender on politics. Here's why

By JOHN GREENWALD

MONEY AND POLITICS

KAREN DAWSON FELT HER back pop as she tried to lift a package in August 1994 from the top shelf of her United Parcel Service truck in Atlanta. Six months earlier, the 85-lb. parcel wouldn't have been there: it was on the truck only because UPS had raised its weight limit on such delivery parcels from 70 lbs. to 150 lbs. in February 1994. Dawson, 37, underwent surgery for a ruptured disk but has been disabled ever since. Today she blames the company for jacking up the weight limit beyond what workers had learned to handle with comfort. "I wouldn't have been injured otherwise," she says.

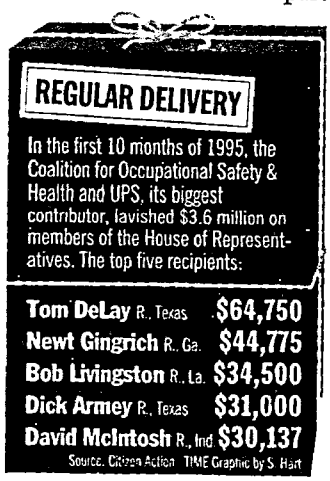
The weight-limit increase helped boost profits and productivity at UPS, known as Big Brown for its ubiquitous chocolate-colored delivery trucks. With 335,000 employees, UPS is the world's largest package-delivery service (1994 sales: $19.5 billion). It is also known as a hard-driving company with a worker injury rate about 25% higher than the industry average. The privately held Atlanta company enjoys another distinction: it is the No. 1 corporate giver to congressional election races. UPS poured $2.6 million into House and Senate campaigns in 1993 and 1994 and kicked in nearly $500,000 more in the first seven months of 1995. Now UPS may be after its biggest trophy ever. It is leading a corporate charge to gut enforcement programs at the Occupational Safety and Health Administration, created by Congress in 1970 to protect workers from injuries on the job.

UPS is lobbying hard for bills proposed by Republican Representative Cass Ballenger of North Carolina and New Hampshire Republican Senator Judd Gregg that would curb OSHA's power to issue citations and fines for infractions of hundreds of rules and regulations. The sweeping change would transform the agency from a watchdog on safety matters to a toothless "adviser" to industry. Ballenger's measure has picked up 155 co-sponsors and, with some tinkering, could pass the House this spring. As it happens, Ballenger got $10,000 from UPS for his 1994 election race. Gregg, who contends that "OSHA has developed a well-earned reputation for overregulation and a lack of common sense," got a $1,000 contribution from UPS in the first half of 1995.

No employer has been a more in-your-face foe of OSHA than UPS. Last month the company joined a coalition of 250 business and trade groups that stifled OSHA's attempts to develop a standard aimed at reducing the incidence of conditions like carpal-tunnel syndrome, an inflammatory wrist ailment triggered by repetitive motion. The victory was won even before the agency had a chance to issue the proposed standards for discussion. UPS called the regulations "intrusive, expensive [and] paperwork producing" in an influential letter to House members. The Center for Responsive Politics, a nonpartisan research group that monitored the battle, pointed to UPS's central role in fending off the standards.

Joseph Dear, the Assistant Secretary of Labor for Occupational Safety and Health, calls the UPS challenge to OSHA " lobbying at its worst." Nonsense, rebuts Ken Sternad, a UPS spokesman. Political fund giving "is the practice in Washington. Not to participate would be highly irresponsible." Kenneth Holland, a University of Memphis political scientist, concurs: "It makes perfect sense if you are in an industry like this one that is heavily affected by federal regulation. Obviously, you have a tremendous incentive to contribute as much as you can."

Sternad readily agrees that "we are a demanding company, and our people work very hard." Partly for that reason, he says, UPS has invested $1 billion on safety equipment and worker-training programs over the past three years. But UPS still had an injury rate of 11.5 for every 100 workers in 1995, in contrast to a national average for transportation companies of about 9 per 100 workers. UPS calls such comparisons misleading because its parcels tend to be larger and heavier than the documents that rivals like Federal Express typically deliver. According to workers like Karen Dawson, that is precisely the point. ***—Reported by Melissa August/Washington and Adam Cohen/Atlanta***


REGULAR DELIVERY
In the first 10 months of 1995, the Coalition for Occupational Safety & Health and UPS, its biggest contributor, lavished $3.6 million on members of the House of Representatives. The top five recipients:
Tom DeLay R., Texas $64,750
Newt Gingrich R., Ga. $44,775
Bob Livingston R., La. $34,500
Dick Armey R., Texas $31,000
David McIntosh R., Ind. $30,137
Source: Citizen Action TIME Graphic by S. Hart

Weather

Today: Partly sunny; hot, humid, afternoon thunderstorms. High 94. Low 74. Wind southwest 7-14 mph.
Monday: Mostly sunny; very hot, humid. High 96. Low 76. Wind 5-10 mph.
Yesterday: Temp. range: 75-89.
AQI: Unavailable. Details on Page B2.

The Washington Post

118TH YEAR ··· No. 230 SUNDAY, JULY 23, 1995

INSIDE THE REVOLUTION
OPEN FOR BUSINESS

The Hill May Be A Health Hazard For Safety Agency

Shift in Political Forces Brings GOP Push to Weaken OSHA

First of two articles

By Michael Weisskopf and David Maraniss
Washington Post Staff Writers

BY KEITH JENKINS—THE WASHINGTON POST

Rep. Cass Ballenger (R-N.C.) chairs the House panel on work-force protections. "My subcommittee is so conservative it makes me look liberal," the conservative said.

Thomas Cass Ballenger, in his roles as small-town industrialist, civic benefactor and veteran congressman from the western hills of North Carolina, always displayed a talent for fund-raising. But the money never came easier than during the congressional elections last fall, when he traveled around his state soliciting contributions for candidates who would serve as ground troops for the Republican revolution.

Wherever Ballenger spoke, checkbooks opened at the mention of the Occupational Health and Safety Administration (OSHA), a regulatory agency that had emerged as a symbol of everything the business world disliked about the federal government. His vision of a House of Representatives controlled by Republicans, as Ballenger later described it, went like this:

"I'd say, 'Guess who might be chairman of the committee who'd be in charge of OSHA?' "

"And they'd say, 'Who?'

"And I'd say, 'Me!'

"And I'd say, 'I need some money.' And—whoosh!—I got it. This was my sales pitch: 'Businessmen, wouldn't you like to have a friend overseeing OSHA?' "

Indeed they would.

They liked the idea so much that they gave Ballenger more than $65,000 to distribute to Republican candidates, including five from North Carolina who went on to win seats

See OSHA, A11, Col. 1

OSHA series
p.1 of 12

Friends of Business Want to Rewrite Rules

OSHA, From A1

previously held by Democrats. The partisan transformation of the Tarheel delegation was an essential part of the Republican takeover of the House, and it led, among other things, to a new and decidedly pro-management chairman for the House subcommittee on work-force protections—Cass Ballenger. A panel that for years had been controlled by the son of a Michigan auto worker killed in an industrial fire was now headed by a deceptively easygoing, 68-year-old good old boy from Hickory who was educated at Amherst, inherited his family's box company and made his fortune producing plastic bags for underwear.

Ballenger and his allies are now fulfilling a promise made during the campaign. With the strong lobbying support of business coalitions, including corporations who are both repeated OSHA violators and leading financial contributors to the GOP, they are pushing the first viable legislative effort to diminish OSHA's powers since its creation a quarter-century ago. The Safety and Health Improvement and Regulatory Reform Act of 1995 would shrink the size of the investigative staff, shift the emphasis to consultation, eliminate separate research and mine-safety operations, and curtail the agency's powers to penalize workplaces that fail to meet federal health and safety standards.

Most of the attention in the House this seminal political year has been focused on the "Contract With America," the balanced budget and Speaker Newt Gingrich's pronouncements. But the OSHA measure is at the center of a quieter struggle, albeit one with major philosophical and economic consequences. The refashioning of OSHA—in combination with attempts to repeal wage and union security laws enacted over the decades by Congress's old Democratic majority—amounts to what labor scholars call the most serious effort to rewrite the rules of the American workplace in the postwar era.

The vast bureaucratic system constructed from those laws was based on a question of trust: Whom do you trust with a worker's welfare—the employer or a federal regulator? The time has come, members of the Republican Congress argue, to reword the answer. "I think employers now take a different approach with their workers than they have in the past," said Rep. Lindsey Graham, a freshman Republican from South Carolina and a member of Ballenger's subcommittee. "My job is to get the government up to speed with the times. And the times for me are to reevaluate the role of the federal government in private business. If you believe that is the mandate, OSHA is a great place to start."

Although OSHA was established during the presidency of Richard M. Nixon and has been run by Republican-appointed administrators for 18 of its 25 years, it is scorned by House Republicans as the archetype of a liberal program gone astray. They describe it as a place where swarms of inspectors swoop down to intimidate innocent merchants, professionals and manufacturers, drown businesses in paperwork and are more interested in imposing fines than ensuring safety.

"They need to do what the hell they're told," said Charles W. Norwood Jr., a dentist from Georgia and the most intense of the Republican freshmen in his dislike of OSHA. "They've been sitting in their little cubicles for 25 years thinking they knew what was best for every industry in this country. They don't. And they don't want to know. All they want to know is what they can get away with to collect money from us."

Many Democrats find their predicament ironic. Year after year they complained that OSHA was ineffective and needed more inspectors and tougher standards. In the last session of Congress, before they lost control, they pushed legislation that would strengthen the agency in the very places where Republicans seek to weaken it. But now they are caught in a rear-guard action defending the status quo, arguing that OSHA, for all its faults, has been a savior for American workers. They cite statistics showing that OSHA saves an estimated 6,000 lives each year and has led to significant decreases in workplace injuries and illnesses. Behind the cover of reform, they say, Republicans are exacting corporate revenge, using the paperwork complaints of small businesses to enrich the management class at the expense of blue-collar workers.

The arguments mark a profound shift of political forces. For years business had felt an obligation to pay homage to the Democratic masters of Congress, even where their interests differed. The Republican takeover created opportunities to bring politics in line with corporate objectives, none more important than rewriting labor laws and loosening the grip of government regulations. In moving from a marriage of convenience to one of shared passions, the business world has showered the Republican Congress with financial rewards. In a single evening last May, at the "New Majority" dinner to raise money for the next congressional election, companies lobbying for labor law changes gave more than $1 million.

With the stakes so high, the debate over OSHA has crackled with fiery rhetoric and melodramatic anecdotes.

From the business world comes a bumper sticker that only slightly exaggerates the prevailing sentiment: "OSHA is America's KGB—It Turns the American Dream into a Nightmare." In the matter-of-fact words of Rep. John A. Boehner of Ohio, a former plastics salesman who now serves as chairman of the House Republican Conference and the leadership's liaison to business: "Most employers would describe OSHA as the Gestapo of the federal government." Business leaders pass along tales of bureaucratic overzealousness, such as the case in Augusta, Ga., where a nonprofit group was fined $7,500 by OSHA for using mothballs to chase squirrels out of the attic and failing to post a notice describing the chemicals contained in the mothballs.

From labor comes a sarcastic title for Ballenger's bill—the Death and Injury Enhancement (DIE) Act of 1995. Democrat Major R. Owens of New York, ranking minority member of Ballenger's panel, reads off the names of men and women killed in the workplace and likens the toll to the death count in Vietnam. Unionists recount workplace tragedies that might have been avoided if not for management carelessness, such as the case in Grand Island, Neb., where a maintenance man at a meatpacking plant had his "head popped like a pimple," in the indelicate phrase of a coworker, when he tried to retrieve his pliers from a carcass defleshing machine that turned on because it lacked the required safety locks.

'See What Can Happen?'

Cass Ballenger saw more than a few workplace injuries during his years as a manufacturer in Hickory, an industrial town whose streets are lined with hosiery mills. When he switched his family business from boxes to plastic bags, he often worked the machines himself. A contraption called the scoring machine was particularly troublesome, he said. "The clutch on it was mechanical and the dang thing always slipped. You'd be wiping grease off it and the cloth would get caught in the gears and, thwack, it would just cut your fingers off."

That was before the days of OSHA, Ballenger noted, and employers and workers relied on "simple common sense." Ballenger kept all his digits, but when someone at his plant lost a finger, he would say, " 'See what can happen? Put the guard back on and don't do that again.' You'd learn not to do that anymore."

From the first time inspectors visited his factory, Ballenger's relationship with OSHA was quarrelsome. "They came into my plant and they told me that my loading dock was unsafe because it didn't have a barrier to keep people from falling off," he recalled in a recent interview. "And so I said, 'Well, let me ask you something, if you put a barrier up, how do you load?' They thought about it and said maybe they were wrong."

Ballenger is a southern storyteller who acknowledges that he occasionally delves into hyperbole to make points. Whether the loading dock inspection happened precisely as he remembered it is unclear. There are no records of the event. But it is important for two reasons. First, in the business world's catalogue of nonsensical OSHA actions, which is an assortment of documented cases and utter myths, the loading dock episode is prominently featured, told and retold in various versions around the country. Second, it shaped Ballenger's perceptions from then on as he dealt as a lawmaker with OSHA.

North Carolina is among two dozen states where federal OSHA standards are enforced at the state level. When Ballenger was in the legislature in Raleigh, he sat on the committee overseeing OSHA and constantly fought with the state labor commissioner, John Brooks. "Every time John came in and said, 'We are underfunded and need more inspectors,' and told us how it was awful that we didn't think about the health and safety of the workers of North Carolina," Ballenger said, he would be thinking, "Here's this horse's ass who runs a lousy operation asking us for more money."

There was a personal aspect to Ballenger's animosity that extended beyond the loading dock incident. He accused Brooks of conducting "political raids" on his bag plant, inspecting it three times only because he was a prominent Republican in what was then a Democratic state government. Brooks called the accusation groundless: Factories were chosen for inspection by a random computer system. "There is no human way to tamper with that system," Brooks said. "Cass knows that and was offered the opportunity to see it working."

"If you believe that," Ballenger responded, "I've got a bridge I'd like to sell you."

'Sympathetic to the Cause'

From the time he reached Washington in 1987 as a House freshman, boasting that he was the only member who had been cited for workplace violations, Ballenger worked on OSHA legislation with a group of Republicans on the old Education and Labor Committee. Their efforts were defensive, trying to stop the Democrats and their labor allies from expanding the agency's powers. "Then, all of a sudden, oops! We got control," Ballenger said of the 1994 elections.

His first task as chairman of the work-force protections subcommittee of the renamed Economic and Educational Opportunities Committee was to pick a team of Republicans lawmakers to help him remake OSHA. "I wanted people sympathetic to the cause," he said. "I was looking for pro-business people."

Harris W. Fawell of suburban Chicago had been working with Ballenger on OSHA bills during the Democratic era and would be helpful this time around. Bill Barrett of Nebraska carried the complaints of the meatpacking plants in his district. Tim Hutchinson of Arkansas, whose district included the chicken giant Tyson Foods, would look out for the poultry processors. Peter Hoekstra of Michigan, who came out of the furniture industry, "hated OSHA with a passion," Ballenger thought. James C. Greenwood of suburban Philadelphia was the most moderate of the veterans, but Ballenger respected him. "I asked him where he would stand on OSHA," Ballenger recalled. "And he said, 'I'll be with you.'"

Then Ballenger recruited three freshmen. He brought in David Funderburk, one of the gang of five from North Carolina. "Oh, I knew Funderburk. Hoo, boy!" said Ballenger, explaining that he considered his Tarheel colleague even more conservative than he was. When Lindsey Graham, a freshman from South Carolina, signed on, Ballenger hailed him as "a good old southern boy—you can count on them every time." And finally there was Charles Norwood, the dentist from Augusta who arrived in Washington last winter with OSHA dead in his sights. "Everybody knew about Charlie," Ballenger said, smiling.

For all the decades that the labor subcommittees were dominated by Democrats, Republicans who were assigned to the panels tended to include a disproportionate share of moderates. Now, in the first year of Republican rule, Cass Ballenger looked at his group and declared that he was about to have some fun. "My subcommittee is so conservative it makes me look liberal," he said. "We could kill motherhood tomorrow if it was necessary."

One of his freshmen put it another way. "This has been a subchapter of the AFL-CIO for 20 years," said Lindsey Graham. "Now everybody here talks slower—and with a twang."

'Pushed Too Far'

Graham and Norwood, whose congressional districts sit next to each other along the South Carolina-Georgia border, provide much of the new twang. They grew up in Democratic families and became the first Republican congressmen from their districts since Reconstruction. In their own ways, they represent the social, economic and philosophical forces behind the Republican revolution and the movement away from government regulation.

The 40-year-old Graham grew up in the textile town of Seneca, where his parents ran the Sanitary Cafe, a bar outside the factory gate. It was a beer and hot dog place with a juke box that played "Satin sheets to lie on, satin sheets to cry on." When the factory shift changed at 3 every afternoon, young Graham would see the mill workers "come in with their shirts covered with cotton, white as they could be. There'd be a finger missing on every other person."

Although he considered his home town an "Andy Griffith of Mayberry type place," he also saw the failings of the old system. The textile plant treated its workers like children, he said, and placed a greater emphasis on productivity than safety. Graham understood that it was necessary for the government to come in then and make workplaces safer, just as he realized that the segregated system his parents were part of—they made black workers buy beer from a takeout window out back—was wrong and required the force of government action to eradicate.

But by the time Graham ran for Congress last year, he had long since become convinced that the pendulum had swung too far toward federal intervention. He thought the role of the government in mandating affirmative action and regulating workplaces had "gone from being helpful to being the biggest obstacle dividing and polarizing the nation by race and by employers and employees." It was his generation's mission, Graham said, to "correct the excesses of government from the past generation."

One day during his congressional race, Graham had what his campaign manager, David Woodard, called "an epiphany." Graham had delivered a noon speech at a small-town Rotary Club, where he received a tepid response. Concerned that he had not figured out how to tap into the old southern Democratic establishment, Graham then paid a visit to a textile mill on the edge of town. He later told Woodard that the plant manager was so agitated he threw a sheaf of papers to the ground and bellowed, "No more damn Democrats. They've got all these inspectors on me. All these crappy regs!"

Afterward, Graham placed an excited call to his campaign manager. "He said, 'We may not have the Rotary, but we have the people running the mills,' " Woodard recalled. "From then on, he picked up the theme."

Norwood, a 54-year-old dentist, sounded that theme from the day he announced for Congress in suburban Augusta, calling himself a businessman "who just got pushed too far" by government regulators. It started a decade earlier when OSHA began taking an active role in the dental profession to ensure that employees and patients were not endangered by blood-borne pathogens such as the AIDS virus. Dentists, Norwood said, did not need to be inspected or told how to maintain safe offices.

Norwood became so upset by the federal health and safety standards, which he said required his dental team to use 200 pairs of gloves each day and set up laundry services within his office, that he began placing an explicit "OSHA surcharge" on the bills he sent to patients. The charges amounted to about $10 per visit. When patients complained, Norwood told them to call their congressman. Then he decided that he wanted to be the congressman. Although he had never run for political office, Norwood had developed a state and national network of dentists from his earlier position as president of the Georgia Dental Association. He raised more than $90,000 from his dental colleagues.

Much like Ballenger in North Carolina, Norwood was motivated in part by a personal experience. The Department of Labor had once investigated him for not paying overtime to his office aides after a disgruntled former employee filed a complaint. Norwood said it would have cost him more to fight the complaint than settle it, but he never forgot the $10,000 the incident cost him nor the role of the federal investigators. From then on he referred to them as "storm troopers."

One morning on the campaign trail, Norwood turned to his young aide, Gabe Sterling, and asked him to find out who was in charge of OSHA. Sterling called Washington and learned that it was an undersecretary of labor named Joseph Dear. From then on, wherever he spoke to businessmen in his district, Norwood would say, "You know, that fellow who runs OSHA, that Joe Dear, well when I get up to Washington I'm gonna call that Joe Dear at 5 every morning and explain to him the problems with OSHA."

It did not take long for Chairman Ballenger to realize that he had a firebrand on his subcommittee. There was no need to reform OSHA, Norwood told Ballenger. They should just close the place down, fire everyone who worked there and then start over. "The only way to do it is to get rid of that crowd," he said.

Ballenger might have agreed, but he knew it would have been counterproductive. "I said, 'That's stupid. You can't win that way. You gotta have a bill,' " Ballenger recalled. "I'm smart enough, or dumb enough, to realize that if we don't pass the bill, we haven't done a darn thing."

Tomorrow: The making of the bill.

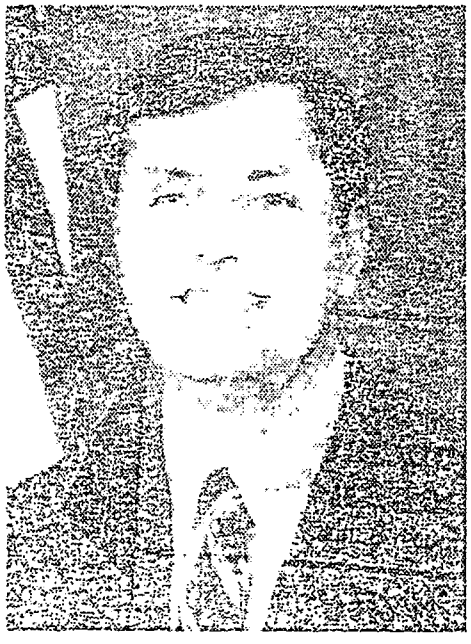
BY RAY LUSTIG—THE WASHINGTON POST

CHARLES NORWOOD,

A dentist "pushed too far" by regulators who "have been sitting in their lit cubicles for 25 years thinking they know what's best for every industry."

CASS BALLENGER,

Chairman of House Economic and Educational Opportunities panel on work-force protections; an old distaste for OSHA and a new taste of power.



LINDSEY GRAHAM,

A freshman on a mission to "correct the excesses of government from the past generation."

OSHA'S OVERSEERS

With corporate support, these lawmakers are pushing the first viable legislative effort to diminish OSHA's powers since its creation. Labor scholars say the Republicans' effort is part of the most serious attempt to rewrite the rules of the U.S. workplace in the postwar era.

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BILL BARRETT

Carried the complaints of meatpackers from Nebraska.

TIM HUTCHINSON

On the lookout for Arkansas' poultry processors.

HARRIS FAWELL

Veteran OSHA foe from the Chicago suburbs counted on for help.

PETER HOEKSTRA

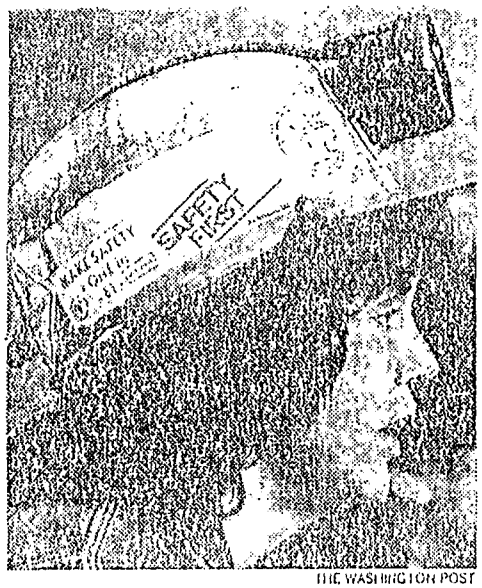
Michigan congressman who was thought to have "hated OSHA with a passion."

JAMES GREENWOOD

The moderate of the group assured Ballenger, "I'll be with you."

DAVID FUNDERBURK

Tarheel freshman was considered a conservative's conservative.



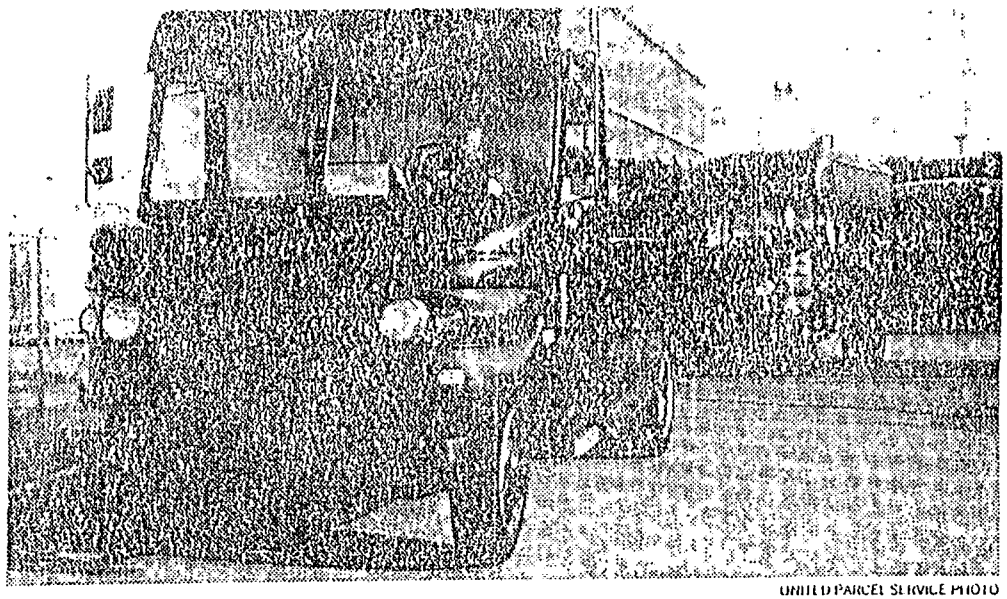
THE WASHINGTON POST

SAFETY IN MINES

The bill would abolish the Mine Safety and Health Administration, which brought about a sevenfold drop in mine fatalities since 1968.

THE PERILS

While OSHA's goal—workplace safety—can only be lauded, its standards and enforcement practices have been criticized by business as overly onerous. Labor interests often claim, however, that the agency isn't doing enough.



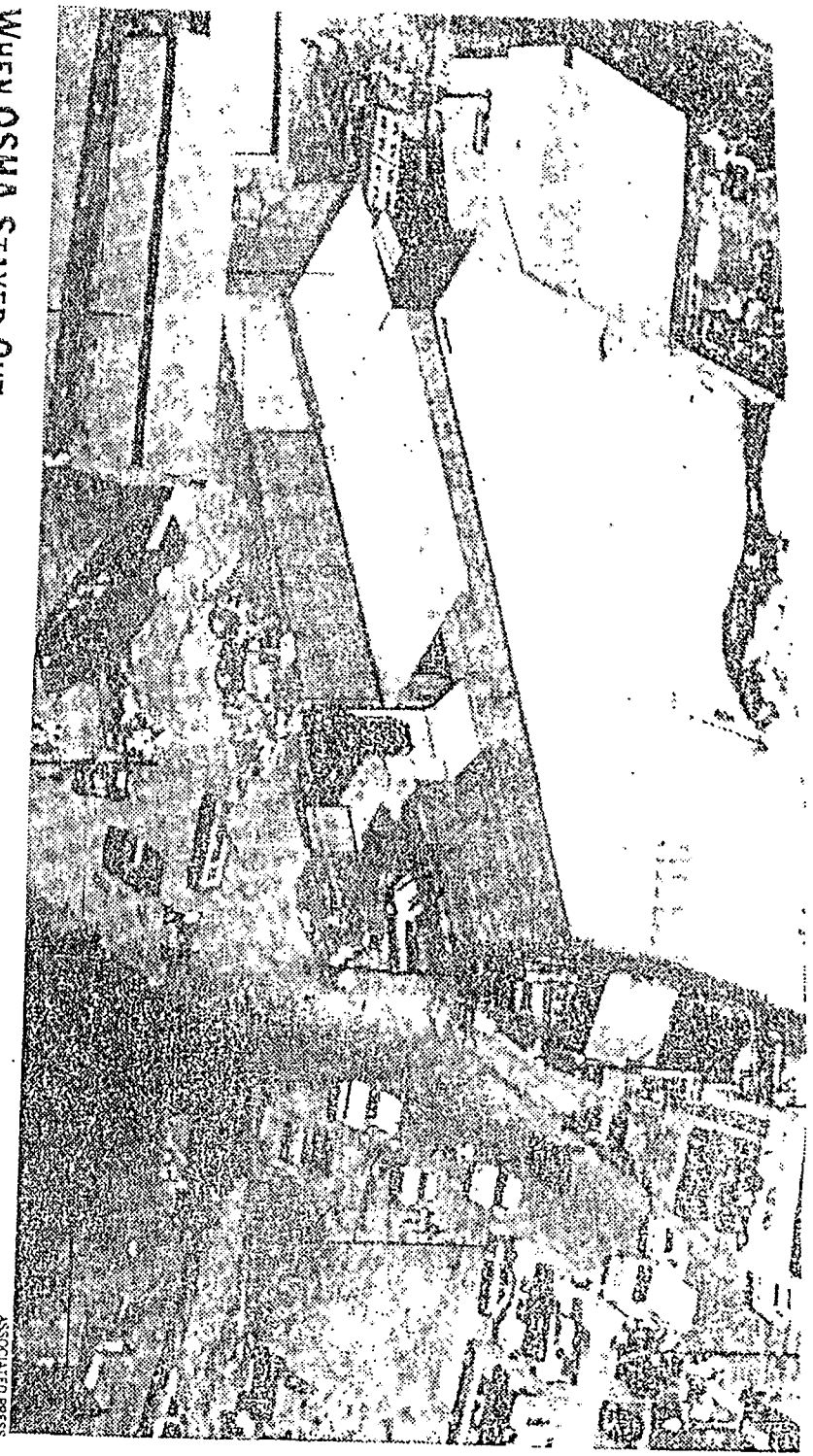
UNITED PARCEL SERVICE PHOTO

THE HEAVY PRICE OF LIFTING

UPS, which OSHA says is the source of more complaints than any other employer, has an intense interest in revising the OSHA standards.

WHEN OSHA STAYED OUT

Before a fire at Imperial Food Products killed 25, OSHA never inspected the plant, which had many safety violations.



ASSOCIATED PRESS

ASSOCIATED PRESS

DOROTHY STRUNK

Capitol Hill experience and a powerful client gave UPS lobbyist the inside track.

THE PLAYERS

For years OSHA's enemies felt they were ignored. Then the GOP took control of Congress, and business had allies everywhere. The bill's drafters were flooded with gripes—although some came from Democrats angry with the proposals.

BY RAY LUSTIG—THE WASHINGTON POST

REP. JOHN A. BOEHNER

Old foe of OSHA realized it was not politically possible to just close it down.

BY KEITH JENKINS—THE WASHI

REP. MAJOR R. OWENS

Ranking Democrat sees the Republican proposal as declaration of war

THE HAMMER

Tom DeLay

God, Money, and the Rise of the Republican Congress

Lou Dubose and Jan Reid

2004

PUBLICAFFAIRS
New York

flat-out lost the debate. The mistake we've made is not to answer the lies that have been put out about us. A lie unanswered becomes a fact." A chief lobbyist for the Chemical Manufacturers Association said, "With all due respect for Tom DeLay, I don't think he's the poster child for regulatory relief anymore. DeLay will have to moderate his message."

Of course he didn't. He was furious when Bill Clinton negotiated a compromise on environmental requirements with corporations that included Dow Chemical, the giant on the south edge of DeLay's district. And he went after Dow, one of his biggest constituents and a big political donor. "They have some strange leadership at the top," he said of Dow. "I think they're backsliding."

The verb "backslide" is a term used often by evangelical Christians to describe brothers and sisters who have lost their religious fervor. On issues of deregulation, there would be no backsliding for DeLay. In future years he would vote to weaken local control over land-use decisions and prohibit the government from designating any tract larger than 50,000 acres as a national monument. He would lead the fight to drill for oil in the Arctic National Wildlife Refuge (ANWR), in the Great Lakes, and off the coast of Florida. He would vote against protecting water from pollution by mining companies, against stricter standards for arsenic in drinking water.

DeLay would have to wait six years after his Appropriations Committee assault on OSHA to finally achieve what he wanted with the agency charged with protecting American workers. In 1995 he had only slowed OSHA's process of developing ergonomic protections. No matter how hard you hit Bill Clinton, he always got up and kept coming at you—which was precisely what Clinton and his secretary of labor did with the ergonomics rule. Clinton decided that the process started during the presidency of Bush the elder was too important to be derailed by Tom DeLay and the Revolution. Even after the woman Clinton had brought in to direct the rulemaking process packed up and

quit in response to DeLay's cutting $3.5 million out of the 1995 OSHA appropriation bill, Clinton persisted. He ordered the Department of Labor to continue work on ergonomic rules that would protect workers from strained backs, torn tendons, carpal tunnel injuries associated with repetitive motion, and a broad range of workplace MSDs or musculoskeletal disorders.

As Clinton saw it, Department of Labor administrative law judges had already heard thousands of hours of testimony from business, labor, medical experts, and the insurance industry and he was not going to abandon the process. But the same business coalition that had worked with DeLay on his Project Relief slowed the OSHA rulemaking process to a crawl, demanding more hearings and presenting more evidence. The comprehensive rule was not ready until the final months of Clinton's second term. On the eve of his departure from office, after the Supreme Court had declared George Bush the next president, Bill Clinton ordered the rules posted in the Federal Registry, making them the new worker protection law in the American workplace. Clinton Labor Department officials justified the midnight posting, citing the twelve-year process involved in developing a rule that would help prevent the 1.8 million workplace injuries that occur each year.

But the U.S. Chamber of Commerce, the National Federation of Independent Businesses, UPS, the beef and chicken processing industry, all opposed the rule, which they claimed would cost business $100 billion a year to implement. (OSHA had calculated only a $4.5 billion annual cost to business.)

Bush chief of staff Andrew Card and senior advisor Karl Rove put holds on many unimplemented federal rules, but the ergo rule was a done deal when the new Federal Registry was published in January 2001.

For DeLay, it was 1995 all over, but this time he had an anti-regulation ally in the White House. Project Relief had devolved into a Wednesday morning meeting of lobbyists in DeLay's office—the gathering of a group he sometimes referred to as his

"kitchen cabinet." "DeLay really wanted to kill the ergo rule," said a staffer on the Senate Labor Committee. "But he didn't have a way to do it." Because it was literally on the books, it seemed as if it was beyond his reach. Then a lobbyist at one of DeLay's Wednesday meetings realized there was a mechanism that could be used to kill the entire worker protection package. Everyone had been missing the most obvious solution. The Congressional Review Act allowed Congress to rescind any rule that had not been posted in the Federal Register for more than sixty days. The solution to the problem was so evident it was almost embarrassing: a Newt Gingrich law pushed through the House by DeLay in 1995. Any attempt to rescind the rules would be blocked by a filibuster in the Senate. But the CRA, the lobbyist said, was the perfect solution. It limited debate to ten hours in each House, allowed no amendments, and required only a simple majority to rescind a law.

Once again, the business lobbyists returned to DeLay's office suite, where they met every day for a week until 6 P.M. to work on a strategy, talk with House members, and count votes. (Snacks were provided by Entemanns and Krispy Kreme, courtesy of the American Bakers Association, which was fighting the ergo rule.) DeLay's staff and the lobbyists also set up a war room on the other side of Independence Ave. in the Longworth Building.

An aide to the late Senator Paul Wellstone described the move to rescind the worker safety protections as a "House deal cooked up in Tom DeLay's office." "We heard there was a bill drafted before we convened," she said in an interview. The CRA resolution had to clear the Senate first, because with the 50-50 partisan division (before Jim Jeffords bolted the Republican Party), passage there was not as certain as it was in the House. Once six Senate Democrats joined Republicans voting for the bill, it moved to the House, where DeLay and his deputy whips, Denny Hastert and Roy Blunt, helped the boys in the business lobby lock up the vote. Twenty-four hours after the CRA resolution cleared the Senate, it passed the House 223-206. What DeLay started in 1995, he completed in 2001. The victory over worker protections was total and absolute. The CRA prohibited Congress or any federal department from rewriting a similar rule. The whole package was dead.

When President Bush called to congratulate DeLay for a stunning victory on behalf of the business lobby, DeLay thanked the president for his help. Bush seemed bewildered. He said he hadn't called a single member of Congress, DeLay told *New York Times* reporter Adam Clymer. The president, in office for fewer than ninety days, didn't quite understand that the bill had passed because of "the very fact that he was in the White House," said DeLay. Without a Republican in the White House, senators with large labor constituencies would never have risked such a vote. (It also helped to have Karl Rove letting the Department of Labor and the Congress know that the president wanted the ergonomics rule undone.)

Democrats complained that ten years of work, $1.5 million of Labor Department funds spent on public hearings and drafting the rule, tens of thousands of pages of testimony, and thousands of hours of hearings were discarded in twenty hours of debate and two fifteen-minute roll call votes. At the end of the ten hours allocated to debate in the Senate, Paul Wellstone, the Minnesota senator who would die in a plane crash while campaigning a year later, knew the rule was dead:

> I believe, once again, the message of passing this resolution tonight is to say to many citizens in our country, who are not the big players and the heavy hitters—and they are not powerful, and they are not high income, and they do not have a lot of lobbyists—I think the message to them is: You are expendable.

"I can't get this grin off my face," DeLay told the *Washington Times* after the ergonomics resolution passed. "I go to sleep and wake up with it."

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UPS piles up safety complaints

Moving at speed of business takes toll on employees, say OSHA and workers

By Carey Gillam STAFF WRITER

On the day Ken Martin died, his biggest worry was Little League Baseball.

Martin planned to take his young son to an evening practice and stick around to help coach.

But his plans changed when his employer of 16 years, United Parcel Service Inc., called. Although Martin, a UPS tractor-trailer driver, was not scheduled to work that day, the company asked him to come in on the night shift at its Pleasantdale shipping facility. Martin agreed, apologized to his son, said goodbye to his wife and left for work about 8:30 p.m.

Less than two hours later, Martin, 41, lay crushed and bleeding against a loading dock. A co- failed to see Martin standing behind him.

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Aug. 22 marks one year since Martin died. His family, friends and co-workers are only starting to come to grips with their grief.

Although the accident was a tragedy for those who knew Martin, it was most tragic because it was not surprising.

Research shows that what happened to Martin is one among thousands of injuries and fatalities that have paralleled UPS' corporate drive to be the biggest, best — and fastest — delivery service in the world.

An analysis of federal inspection reports and interviews with UPS workers, union leaders and federal

SPECIAL

Ken Martin: Crushed to death last year at UPS' Pleasantdale facility

picture of a company that repeatedly runs afoul of workplace safety requirements and pays out millions of dollars in fines as a result. It is a picture of a company that works tirelessly to promote its image as a charitable and upstanding corporate citizen, yet routinely pushes its workers to their limits — and sometimes beyond. Workers scramble to meet time quotas set for almost every motion. Safety and well-being are secondary to speed, productivity and profitability, say workers.

UPS' record includes the following:

- Through June of this year, UPS recorded 35,519 injuries to workers. The company spends about $250 million each year to cover workers' compensation costs.
- Over the last four-and-a-half years, UPS has paid about $3.7

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million to the federal government for alleged violations of workplace safety and health standards, according to the Occupational Safety and Health Administration (OSHA). UPS, which disputes the accuracy of OSHA's records, also has paid $3 million as part of a corporate-wide settlement with OSHA over the handling of hazardous materials. In many cases, OSHA originally proposed much higher fines, but the fines were reduced after negotiations between UPS and OSHA. Other fines remain unpaid because the cases are under appeal. OSHA officials say they prefer to settle cases rather than litigate because companies must correct safety hazards in order to close cases.

- Since 1990, OSHA has documented more than 1,300 citations for standards violations by UPS. Moreover, more than a third of the citations have been designated as "serious," defined by OSHA as a hazard or a violation that could cause death or serious physical harm to employees.
- Between 1984 and 1989, OSHA made fewer than 600 citations at UPS of standards violations — about 25 percent of which were labeled serious. Meanwhile, OSHA conducted fewer inspections of companies nationwide.
- Since 1984, UPS has averaged nearly one on-the-job fatality per year. The fatalities do not include on-the-road vehicular accidents, which are reported to the U.S. Department of Transportation. (The department has praised UPS for its low rate of on-the-road accidents.) All but one death reported to OSHA occurred at a UPS facility. Workers have been run over by vehicles driven by co-workers, squeezed between machinery and struck in the head by falling parcels.

And last month in Oakland, Calif., a 19-year-old part-time UPS worker lost his hand when his arm was caught in a conveyor belt.

"They have pages of safety rules and regs, but then when the volume hits, there's so much screaming and hollering going on to get the work done that there is no time to do all that," says Paul Shurbert, a UPS employee for 19 years.

'We're not perfect'

OSHA officials in Washington and Atlanta say they are unable to document how UPS' record of OSHA violations compares with other companies. But they say their dealings with the company have led them to conclude that UPS is one of the worst in the nation when it comes to providing a safe work environment.

"People here believe that nobody else comes close," says Cheryl Byrne, OSHA's national spokesperson in Washington. "We get more worker complaints from UPS than any other company."

For its part, UPS agrees that its workers make a high number of safety complaints. But the company says that most of the injuries suffered are not serious and that the size of its domestic work force, 279,000 employees, helps explain why UPS may have more complaints than other companies.

"It is a very big operation and we're not perfect," says Bob Kenney, a UPS spokesperson. "We do the best we possibly can to maintain a safe environment."

Moreover, Kenney says, UPS works hard to protect its employees. The company has implemented a series of programs to improve the company's safety record, and the moves appear to be working. For example, UPS is spending more than $100 million to improve the safety of workers who deal with hazardous materials, says Kenney. Through June, reported injuries were down 7 percent from the same period in 1994.

The company also is expanding a management training program in which employees attend an "OSHA academy" to learn safety and health practices.

"We have nothing to gain by not being safe. Safety procedures are there. We practice them every day," says Christian James, a UPS corporate health and safety official.

But sometimes good intentions can't keep accidents from happening.

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As Martin's co-workers gathered around him, they knew instinctively their help would be useless. But some gripped his hands and talked to him. "He didn't do anything for like 30 seconds," remembers Shurbert.

"His eyes were wide open. But everything was broken in him. He was just crushed."

An ambulance arrived at 10:53 p.m. and took Martin to the nearby Dunwoody Medical Center, where he was declared dead at 11:51 p.m. At about 12:20 a.m. — 90 minutes after the accident — a UPS official phoned Martin's wife, Pam. She rushed to the hospital, where she was told her husband of 22 years was dead.

'Fights us every step'

According to the Teamsters, the powerful union which represents the majority of UPS workers, it receives more complaints from UPS workers than from any other company it works with, including garbage collection companies and freight handlers.

"UPS' injury rate is way higher than it should be," says Carolyn Robinson, co-chairperson of a national safety and health Teamsters/UPS committee.

Key areas of concern for the union are problems with handling hazardous materials, ergonomics and UPS' move more than a year ago to increase the weight of packages — from 70 pounds to 150 pounds — that UPS workers must handle.

Robinson says that UPS often seems more concerned with fighting suggested improvements than getting rid of the dangers.

"We feel that time and again, on every issue, we're dealing with a company that fights us every step of the way," Robinson says.

The Teamsters commissioned a study by the University of Illinois to survey UPS drivers in four states. The university found that the rate of injury for UPS drivers was three times the national average for city freight drivers, says Robinson. Eighty-five percent of the drivers in the study complained of back pain.

One "bright spot," says Robinson, is a 4-month-old pilot project at three UPS facilities in the United States. At those facilities, the Teamsters and UPS set up joint committees to implement comprehensive safety programs. The goal is to eliminate complaints to OSHA and improve the response of management to perceived safety problems. If the cooperative effort proves successful, the effort will be expanded to other UPS facilities.

"We're basically empowering the hourly worker to say, 'Hey boss, fix this,'" says UPS' James.

Changes at Pleasantdale

As part of UPS' efforts to improve safety, some improvements have been made to the Pleasantdale yard where Martin died.

Newly purchased shifters (called "yardbirds"), which are used to maneuver trailers, come equipped with automatic warning signals that beep when the vehicle is backing up. But all the older Pleasantdale shifters, which make up the majority in use, have no warning signals, say workers there.

In its investigation into Martin's death, OSHA found that "employees were being exposed to moving trailers which were driven in a rearward direction when the drivers' view to the rear was obstructed." OSHA told UPS it could prevent similar accidents by equipping its shifters with audible alarms that activate when the vehicle goes into reverse.

UPS honors Ken Martin: Shortly before he was killed, Martin (right) received a safe driving award recognizing his 13 years of accident-free driving.

The driver of the shifter that hit Martin wasn't using a warning signal, according to OSHA's investigation report. Also, the driver's view of the area behind his trailer was obstructed in such a way that he didn't see Martin. Meanwhile, Martin didn't see the trailer coming because he was busy entering delivery data into a hand-held computer.

Workers interviewed by Atlanta Business Chronicle say that shifter drivers were supposed to blow their horns when backing up because they didn't have automatic warning signals. But supervisors repeatedly told drivers at the Pleasantdale facility not to blow their horns after 10 p.m. because homeowners in a nearby subdivision complained about the noise, say the workers.

Although Kenney of UPS confirms that workers were told to "avoid unnecessary noise" at night, he denies that Pleasantdale supervisors told drivers not to honk when backing their vehicles.

The drivers describe the Pleasantdale yard as crammed with fast-moving tractor-trailers, shifters and people; all hurriedly trying to meet their time quotas.

"I've complained several times to management about safety concerns," says Marcus Schrichte, a UPS shifter/driver for 20 years. "But I really don't believe UPS is ever going to change things. If you change everything to where everything is safe, it would slow things down quite a bit."

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Martin's death hit his family at a particularly bad time. He and his wife had just purchased a new home and taken on a new mortgage. The mortgage insurance they purchased — in the event something happened to Ken — took effect Sept. 1, nine days too late.

Pam Martin's salary as the executive administrative assistant to William Johnson, chairman of The Ritz-Carlton Hotel Co., was barely enough to support four children, she says, and the total insurance and workers compensation benefits from her husband's death totaled $150,000, a little more than two years of his salary. His pension from UPS was worth $4,000.

At the suggestion of the funeral home that prepared her husband's body for burial, Pam Martin asked UPS — a company with $19.6 billion in annual revenue — to pay the expenses of $14,000. She wrote a personal letter to UPS Chairman Kent "Oz" Nelson, who is Atlanta's United Way chairman, imploring him to help her family. But a UPS attorney responded, The answer was no. Though UPS was required by Georgia law to pay the first $5,000 of the funeral bill, it would not pay the rest.

A $5,000 fine

In contrast to the toll on Martin's wife and children, his death cost UPS relatively little. After visiting the accident site, OSHA inspectors fined the company $5,000 and rated the violation serious and of the highest gravity. But UPS appealed the fine and did not settle with OSHA until late June.

The settlement retains the $5,000 fine but alters the violation from a "serious" citation to "nonwillful/other than serious." It includes a UPS statement that it "expressly denies" any violation and is settling merely to avoid the costs of further litigation.

UPS' Kenney says that Martin's accident is something "we deeply regret." But, he adds, UPS is not responsible for Martin's death. The company's procedures were satisfactory, he says.

Martin's case is closed as far as UPS and OSHA are concerned. But many other safety issues remain unresolved.

Chief among those is a battle between UPS and OSHA over standards of safety related to ergonomics, which seeks to adapt the conditions of the workplace to workers and thus reduce repetitive-motion injuries.

Using lobbyists and political contributions, UPS has emerged as one of OSHA's fiercest foes in an ongoing battle on Capitol Hill between the federal agency and big business. America's corporations have spent the last few years trying to keep Congress from strengthening OSHA because they believe its regulations are unduly burdensome and unfair.

UPS has "taken a leading role in preventing OSHA from working on an ergonomics standard," says OSHA's Byrne. OSHA feels safety standards for ergonomics are necessary because the impact of injuries on workers is both widespread and debilitating, she says.

"If you are expecting a worker to load 2 tons of packages in an hour, you are asking them to put an incredible strain, if not permanent damage, on upper extremities, legs and the lower back," she says. "The human body is just not designed for that."

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UPS' Kenney says that, in fact, UPS workers are built for exactly the kind of work they do. The ergonomic standards that OSHA wants to impose reflect the limits of people in the general society, not the "physically fit, athletic" work force that makes up UPS, he says.

In addition, Kenney says, the standards proposed by OSHA are not practical or efficient for a business such as UPS. It would cost UPS "huge sums" to comply with the proposed OSHA standards, he says. UPS contends the new standards should take into account differences among industries.

'Pushing, pushing, pushing'

Part of what makes UPS different from other employers is that speed is king; beating the competition primarily means beating the clock. The company has worked hard to be tops when it comes to timely deliveries, and there are speed and productivity requirements set for almost every motion workers make.

"They're always there, nipping at your heels," says one worker. "They're always pushing, pushing, pushing. But it works for them."

This year UPS turned up the heat a notch higher by rolling out same-day delivery service in the United States in April and international 24-hour, same-day service in May.

How much that drive to dominate the worldwide delivery market affects the health of workers is an issue on which OSHA and UPS are far apart.

Since 1990, OSHA has proposed fines of more than $500,000 for injuries suffered at just two UPS facilities. After negotiations, the company paid a little less than $300,000.

OSHA's Byrne says that the agency has withdrawn most of its citations about ergonomic problems as it attempts to write new safety standards for that area.

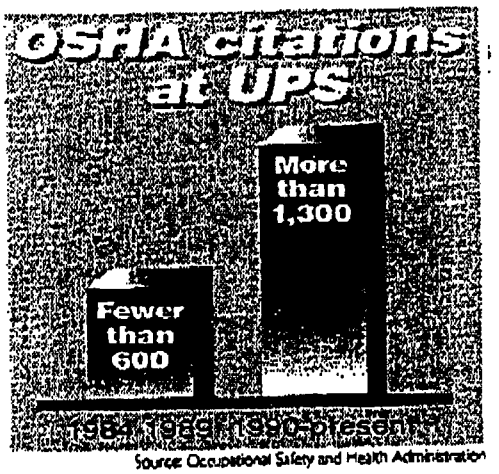
OSHA and UPS are also at odds over the company's practices in handling hazardous materials. Scores of workers have been injured in recent years because of spills and leaks from packages.

Last year, the company reached a $3 million settlement with OSHA and agreed to buy about $40 million in new machinery and retrain all affected employees. However, the federal agency contends UPS is not in "substantial compliance" with the terms of the settlement. UPS asserts that it is in compliance.

Faulty record keeping

Over several years, OSHA has cited UPS for a variety of problems. Workers have been electrocuted, have lost fingers and have been caught in machinery that wasn't equipped with emergency stop devices.

And those are the injuries that have been reported. One of the largest fines OSHA has proposed against UPS was a $625,000 penalty in 1990 for injuries that OSHA says UPS failed to report.



Using lobbyists and political contributions, UPS has emerged as one of OSHA's fiercest foes in an ongoing battle on Capitol Hill between the federal agency and big business.

OSHA says that it found 310 cases of faulty record keeping by UPS that involved accidents and injuries suffered by employees in New York state. Companies are required by law to report accidents and injuries to OSHA. But OSHA concluded that UPS willfully disregarded the reporting requirements. UPS paid $320,030 to close that case. OSHA also says UPS' Watertown, Conn., operations failed to notify OSHA about a job-related death.

For all its citations and fines, OSHA doesn't view all of UPS' operations in a negative light. More than half of the time OSHA investigates a UPS facility, it either finds nothing wrong, or nothing significant enough to warrant penalties, says Byrne. And OSHA applauds UPS' recent efforts to improve workplace safety and abate hazardous situations, she says.

UPS officials and industry observers say UPS' ranking as the largest employer of Teamsters in the world is an important consideration to keep in mind when evaluating UPS' safety record. A unionized worker generally feels less inhibited about making safety complaints than does a nonunion laborer. Moreover, they say the Teamsters might exaggerate safety concerns as a political maneuver against management.

"A UPS employee who is a Teamster is far more likely to complain than a Federal Express employee who is not a member of a union," says Joseph Kinney, spokesperson of the National Safe Workplace Institute in Charlotte, N.C. The institute is an independent think tank on occupational safety and health issues.

Local Teamster official Ken Redding, who acts as business agent for UPS, says that the union may be more likely to speak out about safety problems, but it doesn't exaggerate them.

"It's kind of like being pregnant," he says. "When it comes to a safety problem, it's either there or it's not."

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Ken Martin's death hit his colleagues hard. A few drivers wanted to honor his memory with a symbolic gesture.

"We wanted to fly the flag at half-mast while he was in state and being buried," recalls Don Plemons, a 23-year UPS employee. "But they [UPS management] said no, they didn't want anyone to ask questions about why the flag was at half-mast. The local drivers wanted to run with their lights on . . . but they said no, they didn't want anyone to know what happened. The big brown machine, you know."

'Most admired'

Image is important for UPS. Its trademark brown trucks are familiar world-

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Widow frustrated by Georgia's workers' compensation law

When Ken Martin became an accident statistic at United Parcel Service, his wife and children found out the hard way how Georgia's workers' compensation system works.

After Martin's death in August 1994, his wife, Pam Martin, wanted to file a lawsuit against UPS. She says she felt betrayed by the company's lack of consideration for her emotional and financial needs. And she suspected that safety violations by the company contributed to her husband's death. But lawyers she contacted advised her it would be an uphill battle.

According to the state Workers' Compensation Act, employers are shielded from lawsuits by employees or their families as long as the company provides workers' compensation insurance benefits for its workers. The law works to provide relief to injured employees while at the same time protecting employers from excessive damage awards. Under the law, workers or their families are entitled to a predetermined schedule of benefits. Conversely, the law severely limits the ability to recover financial awards above the workers' compensation benefits.

In Martin's case, workers' compensation benefits amount to $275 a week for eight years.

The law is a source of frustration for Pam Martin, who wants to see UPS pay for both the accident and its aftermath. For almost a year, her single biggest complaint has been the company's delay in notifying her that her husband lay dying. Some 90 minutes after the accident, and 29 minutes after Ken Martin died on an operating table, she received the first call from a UPS official that an accident had taken place.

A UPS official says that the company's primary concern was getting Ken Martin the medical attention he needed.

But Pam Martin is not placated.

"They denied me a last minute with him," she says. "He devoted 16 years to that company. I don't to this day understand why UPS treated us so harshly."

— *Carey Gillam*

Martin family at home: Back row (from left) are Wendy, Ryan, Pam and Bre; and in front, Adam.

UPS

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wide. In fact, the company recently received international attention for delivering the official Olympic invitations across the globe. The company has been lauded by Fortune magazine as one of the top 10 "most admired" companies in America; by the National Alliance of Business as "company of the year"; and by a Fordham University professor and author as one of the "best companies for minorities."

UPS' new corporate headquarters in suburban north Fulton County has been applauded for its environmentally friendly design. Chairman Nelson is known as a civic leader who campaigns enthusiastically to raise money for United Way charities.

Workers say that UPS is so concerned about its image that workers finishing a shift are not allowed to wear their uniforms home. This reduces the possibility that their off-duty activities might embarrass the company.

Image awareness has even led the company to instruct employees to tape over the UPS logos on vehicles involved in accidents on the road, say drivers.

So when Martin was killed, great effort went into preventing the accident from gaining public attention, say his co-workers.

Overall, UPS has been successful. The incident slipped quietly into the record files at UPS and OSHA, and another driver has taken Martin's place in the Pleasantdale yard.

But for some, the legacy of his accident is a lasting sorrow. Pam Martin, who hasn't forgiven UPS for failing to call in time for her to tell her husband goodbye, still wears her wedding ring, cries frequently and attends weekly grief counseling sessions. One child dropped out of school while the other children struggle to stay in.

And Martin's fellow drivers at UPS remain bitter.

"Someone needs . . . to come up with a plan to do things different," says Schrichte, a UPS driver for 20 years. "Because it's going to happen again. It really will."

In the Productivity Push, How Much Is Too Much?

U.P.S. at Center Of a Debate On Work Safety

By CHRISTOPHER DREW

KANSAS CITY, Kan.

AFTER a surgeon removed the two-and-one-half inch screws and steel clamps from his back, Henry Gallet kept them in a small plastic container, a grim reminder of the hazards of his job.

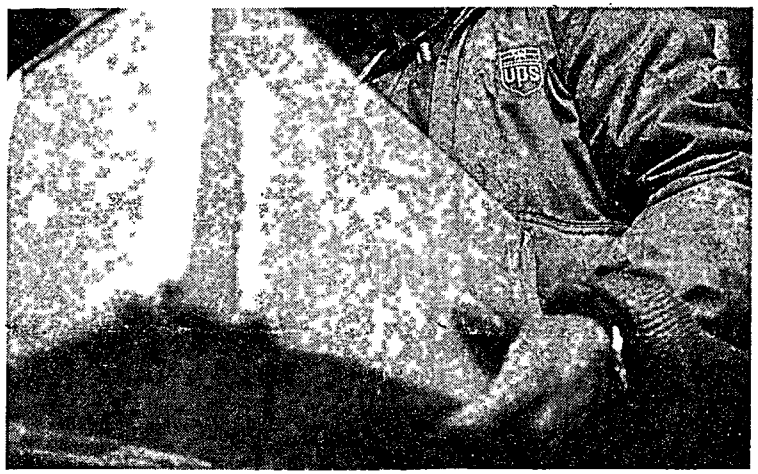
For 11 years, Mr. Gallet, 37, has been a driver here for United Parcel Service of America Inc., the world's largest package-delivery service with $20 billion in annual sales. The work has always required him to pick up and deliver hundreds of packages a day under heavy time pressures. But Mr. Gallet says he never suffered a serious injury until early last year, when U.P.S. lifted a weight limit on the boxes it carries to 150 pounds from 70 pounds.

On the very day that change went into effect, Mr. Gallet felt a sharp pain while pushing a 126-pound box of flour-sifting screens onto his truck. His doctors had to use the screws and clamps to fuse a slipped vertebra back into place.

At a big U.P.S. hub in nearby Lenexa, Kan., David Gray, 27, also has become used to living with pain. Mr. Gray, a former college football player, says he tore up his shoulder sorting 900 boxes an hour, a job that requires constant lifting and twisting amid a maze of a dozen color-coded conveyor belts.

Photographs by Phillip Greenberg for The New York Times

Some U.P.S. workers and Government officials say the shipper is overburdening its employees; the company says it is just trying to remain efficient.



To hear some current and former officials of the Occupational Safety and Health Administration, U.P.S., the company that calls itself "the tightest ship in the shipping business," pushes its workers too hard.

These officials contend that the company exposes many of its workers to injury by requiring them to lift too much weight or perform too many repetitive motions. After inspecting some of U.P.S.'s operations in recent years, they have said the company may need to slow the pace or reshape its operations to reduce injuries.

Indeed, U.P.S.'s injury rate has been consistently higher than those of the trucking and delivery industries as a whole. For every 100 full-time workers, U.P.S. says it recorded 15 injuries in 1994 that led to lost time, and 11.5 through September, compared with a national average for those types of businesses of 8 to 9 percent.

But Big Brown, as the Atlanta-based company is known in its own rough-and-tumble world, is not budging. U.P.S. has resisted some of the safety suggestions of not only Federal regulators but also the powerful International Brotherhood of Teamsters, which represents about half of the 335,000 full- and part-time workers at U.P.S.

More than that, the company, backed by its own lobbyists and political action committee, the most generous in Washington, is leading industry's charge to scale back Federal safety regulations that affect not only its own workers but also tens of millions of others in practically every nook of business. The issue is this: At a time when many companies are chasing higher productivity, who should decide when they are jeopardizing their employees' well-being, and what to do about it?

One of the goals of U.P.S. is to slash OSHA's budget and shift some of its focus from fining companies for safety problems to merely advising them. U.P.S. is also a key player in a 300-company coalition that seems on the verge of killing a proposed Federal rule meant to limit injuries from heavy lifting and repetitive job motions. The rule would apply to hazards that cause arm, back and hand injuries in businesses from meatcutting to data entry.

Prodded by U.P.S. and other companies, including its archrival, Federal Express, the Republican-led Congress voted last summer to stop OSHA from formally proposing the standard. Now U.P.S. is supporting a plan passed by the House to ban OSHA from even working on the rule or collecting any data from employers on the extent of the various injuries. The Clinton Administration and organized labor are battling back, and the issue could come to a head in Senate debate early next year.

"It's special-interest lobbying at its worst," said Joseph A. Dear, an assistant Labor Secretary who heads OSHA. "I think it's an incredible overreaching to say that an agency can't collect data about one of the largest injury problems in the workplace

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In the Productivity Push, How Much Is Too Much?

Continued from Page 1

today."

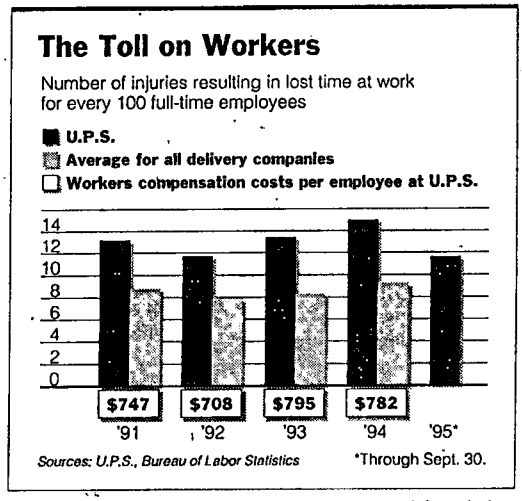
But executives at U.P.S., whose dark brown delivery trucks have long been a familiar part of the American landscape, say they are fighting the proposed rule because they think it is deeply flawed and could cost industry billions of dollars.

They also argue that neither OSHA nor any ergonomists, the experts at adapting workplaces to fit the human body, can predict with certainty how much weight or motion is likely to cause an injury. And they say companies could be hit with big fines any time that OSHA didn't think they were making enough effort to solve the problems.

Joseph C. Schneider, the company's vice president for human resources, acknowledged that U.P.S. workers sustain thousands of "sprains, strains and bruises" each year because "it's the nature of the work we do." But he also said "we are doing everything we can to minimize the severity of injuries."

Matt Branam, a U.P.S. lobbyist, said the company recognizes that "ergonomics works" and has been spending a lot on safety. But he said it thought that OSHA's proposed rule went too far and would identify "almost every job at U.P.S." as placing workers at risk.

Under a draft released earlier this year, OSHA's plan would require companies to identify jobs that might be hazardous and figure out how to make them safer. But Mr. Branam maintained that some of the trigger points — like repeating a job motion for two hours at a time and repeatedly lifting more than 10 pounds in an hour — were set at such low thresholds that the plan would make it impossible for U.P.S. to bring many of its jobs into compliance.



Adding to the tension between OSHA and the company is the access U.P.S. has to Congressional leaders. Its political action committee has handed out $3 million in campaign donations over the last three years, according to an analysis by the Center for Responsive Politics, a Washington research group.

To make its case to key Republicans, U.P.S. has also turned to a consultant, Dorothy L. Strunk, who was an acting head of OSHA in the Bush Administration. In that role in 1992, she initiated the agency's work on the ergonomics standard.

Ms. Strunk now says the work she approved was mainly "just to ask questions" about the extent of the problems. She also said there is enough disagreement in the medical community about what causes such injuries that "there is just no scientific evidence on which to base a Government standard."

But Mr. Dear said many companies had found that even simple changes, like using more mechanical aids or altering work stations, could pay big dividends in reducing injuries, and OSHA needed to find some way to get others to do the same.

•

Founded in 1907 as a bicycle-messenger service in Seattle, United Parcel now dominates a huge industry. The company has grown so large that it now ranks 35th on the Fortune 500 list, ahead of Merrill Lynch and Coca-Cola.

No delivery outfit — other than the Postal Service — is in the same league. On a typical day, U.P.S. dispatches 55,000 delivery trucks. And its 335,000 workers, split almost evenly between full-time and part-time, including many college students, sort and deliver 11.5 million packages. For the holiday season, U.P.S. brings on 95,000 more workers, and it expects the flow of packages to nearly double to 20 million a day this week, the busiest of the year.

By comparison, the Memphis-based Federal Express Corporation normally handles 2.4 million packages a day and is peaking at 3 million during the Christmas rush.

In effect, U.P.S. delivers more than four times as many packages with only twice as many drivers. What is more, the lion's share of Fedex's business remains packets of documents sent by air, while the bulk of U.P.S.'s business is still heavier boxes. Many U.P.S. workers say it is therefore not surprising that Federal Express reports an injury rate below industry averages, though it will not disclose the exact number.

U.P.S. has always been owned mainly by its managers, many of whom rose from delivery and sorting jobs. They demand a lot from their workers. The company has been praised for decades as a model of clockwork efficiency and quiet dependability. A former chairman once described the company as a "cross between the Marine Corps and a Quaker meeting."

As part of its effort to get the most out of its workers, the company has long embraced time management and other industrial-engineering techniques. Armed with stopwatches, company supervisors accompany drivers on their delivery routes, taking note of every stoplight, parking problem and poorly placed elevator that might slow the pace.

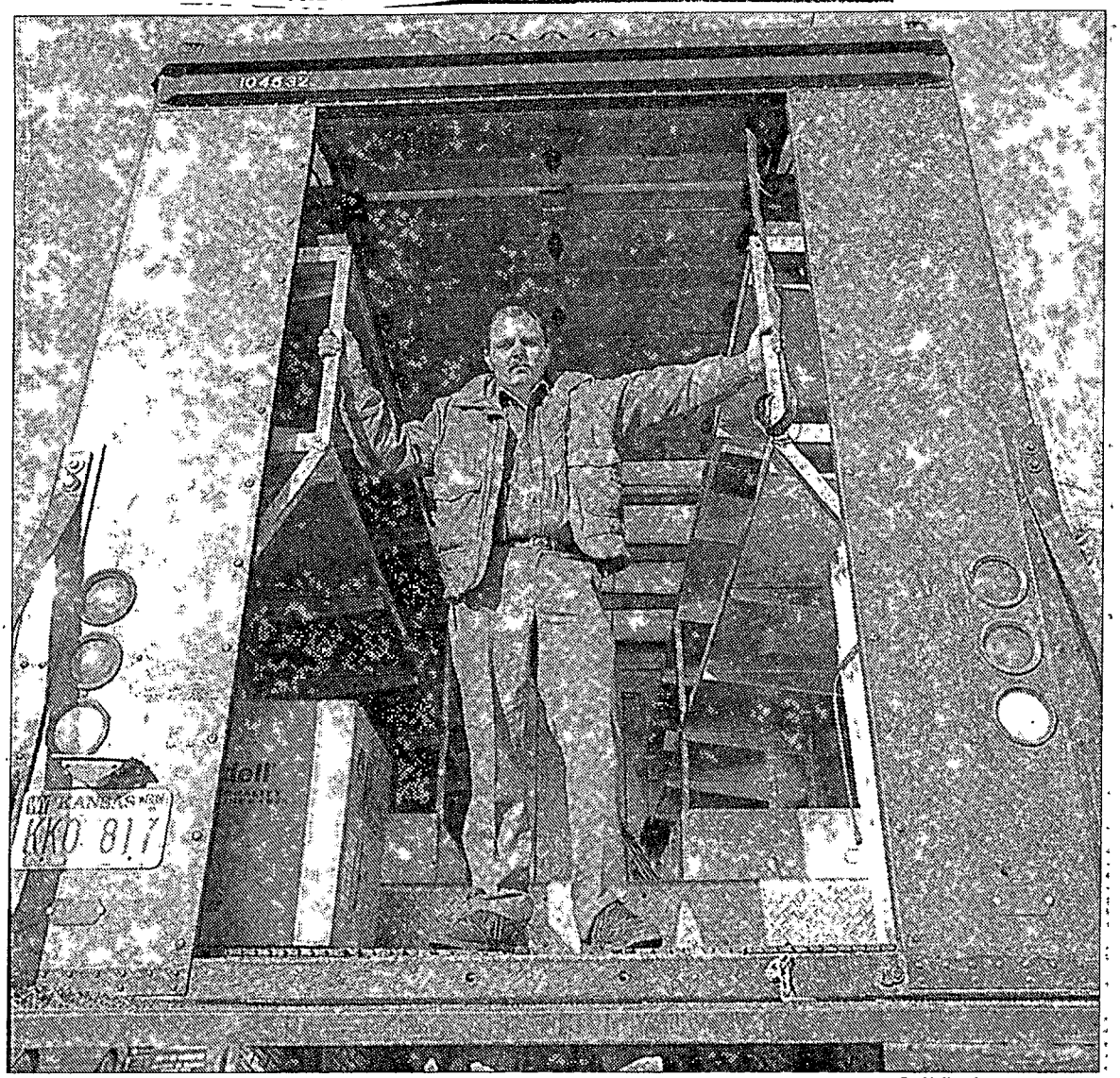
They also enforce a rigid code of rules intended to make the drivers more efficient. Drivers who cannot stick to their schedules, including some suffering from injuries, are written up as the "least best" at their facility and, some say, harassed by their supervisors.

But in recent years, Federal Express and Roadway Services Inc., U.P.S.'s flashier and more automated main rivals, have forced U.P.S. to scramble, and in many ways its heavily manual sorting operations have begun to seem like a throwback to another era.

The competition has prompted U.P.S. to plunge into a vast array of new services. It has taken on the heavier packages, begun air service for overnight and same-day deliveries and expanded abroad.

Many of these strategies have paid off. Revenues soared 44 percent, to $19.6 billion, in 1994 from $13.6 billion in 1990, and profits increased 58 percent, to $943.3 million, from $597 million in the same period.

Most U.P.S. workers have prospered along with the company, which is the largest employer of teamsters, with 170,000. The drivers, for example, make the highest wages in the trucking industry, an average of $45,000 a year, and this fall won the right to buy stock in the company.



Cynthia Howe for The New York Times

Henry Gallet was injured lifting a 126-pound box after U.P.S. raised a weight limit on its boxes to 150 pounds from 70 pounds.

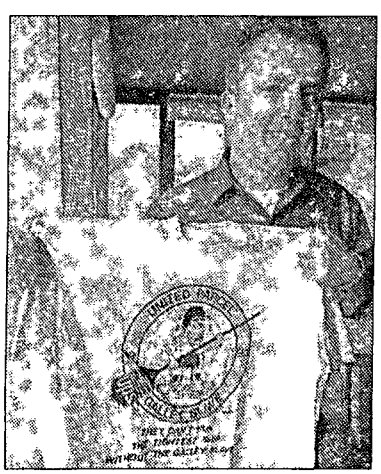
Some say its culture has also begun to change.

The company recently bought out 4,000 managers to cut costs. And it is running tests to give drivers more say over how they handle their jobs.

"I guess the old company way was, 'If the employee says he's hurt, he probably isn't,' " said Steve Parker, a union steward at one of the test sites in Alabama. "A lot of that is changing."

Still, Ron Carey, president of the teamsters and a former U.P.S. driver, said that the main problem at U.P.S. has always been that "if safety is confronted by production demands, then safety goes out the window." And one big question now, he said, is whether the company will do more to ease the physical strain on its workers.

Lisa Berg for The New York Times



Cynthia Howe for The New York Times

Paul Heiman attributes six operations to job strains, but Dorothy L. Strunk, hired by U.P.S. as a consultant, says there is disagreement in the medical community about the cause of such injuries.

Prodded by complaints from the teamsters, OSHA stepped up its scrutiny of U.P.S. in the early 1990's, issuing more than 1,300 citations nationwide for safety violations, one-third of them considered serious. That makes U.P.S. one of the most frequently cited companies, OSHA said.

In the biggest case, OSHA fined U.P.S. $3 million for failing to protect its workers from spills of hazardous materials from damaged packages. The company says it has since spent $100 million on training and disposal operations.

From 1991 to 1993, OSHA also issued citations at four U.P.S. hubs, including the one in Lenexa. The citations contended that workers were suffering "a significant number" of back, arm and hand injuries because of the taxing pace of the work.

The Lenexa citation, which proposed a fine of $140,000, said many of the truck loaders and sorters had to handle anywhere from 500 to 1,200 boxes each hour. (The size of the boxes varies, but the company says the average box weighs 10 pounds.) And it suggested more than a dozen ways to reduce the stress, from cutting the workload of each employee to revamping the hub's conveyor-belt system to lessen the twisting and reaching that the workers needed to do.

In levying the sanctions, OSHA used its authority under a general-duty clause in Federal safety law that allows it to cite violations of "recognized hazards" that are not covered by specific safety standards. The agency had used this approach since the mid-1980's to cite hundreds of other companies for similar problems.

Continued on Next Page

U.P.S.

Continued from Preceding Page

But U.P.S. decided to fight the citations. And in mid-1993 a judge ruled in a similar case involving another company that OSHA had to issue a rule defining ergonomics hazards if it wanted to keep penalizing companies for them.

At that point, lawyers at the Labor Department ordered OSHA to drop the four citations against U.P.S., and the focus of the fight between the agency and the company shifted to OSHA's efforts to develop the standard.

Since then, some U.P.S. workers say, other safety concerns have revolved around questions of whether some of the company's new services and technologies are exposing workers to injury.

U.P.S. officials say they increased the package weight limit to 150 pounds from 70 to match services offered by Federal Express and Roadway. But when U.P.S. made the move in February 1994, about a fifth of its teamsters walked off the job for a day in protest.

Mr. Gallet, the Kansas City driver who hurt his back picking up a heavy box, said his injury illustrated a fundamental problem of trying to cart such heavy loads in low-bellied package trucks, rather than the larger trucks with mechanical lifts that freight companies use.

Mr. Gallet said that at his supervisor's suggestion, he got help from an employee of the company sending the box. They pushed the box off a dock, where it slid three to four feet onto the bed of his truck. He said he then hurt his back when he tried to shove the package farther into the truck.

About 40 U.P.S. drivers from 20 states have sued a U.P.S. subsidiary and three other companies, contending that a computerized clipboard they designed and manufactured is causing serious elbow and wrist injuries.

U.P.S. switched from paper invoices to the four-pound computers a few years ago. The plaintiffs said early models caused strains.

One plaintiff, Marty Sy of Decatur, Ill., has had four operations on his elbows. Another, Chris Carbajo, a 34-year-old Lenexa driver, said he could not hold his children without his hands going numb.

Other U.P.S. drivers say their bodies simply wear out after years of pounding. In Lenexa, Paul Heiman, 42, said he has had six operations — three on his shoulders and three on his knees — in the last two and a half years to repair torn or strained ligaments. He worries about whether he will "have a decent old age."

Mr. Schneider, the U.P.S. vice president, said the company had a "blip" in injuries shortly after the weight limit was increased, but that it had since eased. Kenneth B. Sternad, a U.P.S. spokesman, said that on average the company's drivers have to handle a package weighing more than 70 pounds just once every three days.

U.P.S. also disputes that the hand-held computers cause injuries.

Still, the company, which spends more than $150 million a year on workers' compensation, said it was taking many steps to prevent back, hand and arm injuries.

U.P.S. officials said they had adjusted the height of the steps in their newest delivery trucks to lessen the pressures on drivers' knees. They have also given most drivers stronger but lighter hand trucks. They have also installed slides on most of their sorting lines to keep workers from having to bend low with boxes.

But they say the ultimate answer lies in more automation.

To eliminate the troublesome hand-held computers, Mr. Sternad said, the company was shifting to scannable bar-code labels on boxes and was developing a hand-held scanning device to replace the computers that require keystrokes.

Mr. Schneider added that U.P.S. was testing automated sorting equipment in several distribution centers and would probably start installing it in others over the next several years. He said it is also looking at automating truck loading and unloading, though that is "more difficult in terms of the technology and farther down the road."

If U.P.S. went ahead with such changes in sorting and loading, they would eliminate the very jobs that OSHA has viewed as most hazardous. But Mr. Schneider said the company projects enough business growth that it should be able to switch those workers to new assignments.

"We wouldn't want to send out a lot of scary thoughts," he said, "because our own projections are that we're never going to need less people over all than we have now." □

U.P.S. Ahead, for Now

How the two giants of the overnight delivery business match up.

UPS, 12 months ended 12/94		FedEx, 12 months ended 5/95
PROFITABILITY		
$19.6	Revenue, billions	**$9.4**
$943	Net income, millions	**$298**
	Returns	
4.8%	Net margin	**3.2%**
8.8%	Return on assets	**4.8%**
23.9%	Return on equity	**15.5%**
EFFICIENCY		
315,000	Employees, 1994	**94,200**
63,500	Couriers, 1994	**33,000**
10 lbs.	Average package weight	**6.3 lbs.**
	Daily package volume, 1994 in millions	
11.5	Normal	**2.2**
18.1	During holiday season	**3.4**
	Average daily deliveries per courier, 1994	
181	Normal	**68**
285	During holiday season	**102**
SHAREHOLDER WEALTH		
$26.25*	Most recent price per share	**$75.125**
3.3x	Price to book, 1994	**1.9x**
16.1x	Price to earnings, 1994	**14.3x**
2.1%	Dividend yield, 1994	**0%**
$15.2	Value of equity, billions	**$4.2**

*Not publicly traded. Price at which company recently bought shares from employee-owners.

Sources: U.P.S., Federal Express, public filings

WINNERS OF THE EVERETT M. DIRKSEN PRIZE FOR JOURNALISM AND THE GEORGE POLK AWARD

"TELL NEWT TO SHUT UP!"

DAVID MARANISS

MICHAEL WEISSKOPF

POLITICAL SCIENCE

Speaker Newt Gingrich and his troops promised a revolution when they seized power in January 1995. The year that followed was one of the most fascinating and tumultuous in modern American history. After stunning early success with the Contract with America, the Republicans began to lose momentum; by year's end Gingrich was isolated and uncertain, and his closest allies were telling him to shut up.

Here is an unprecedented, fly-on-the-wall look at the successes, sellouts, and perhaps fatal mistakes of Newt Gingrich's Republican Revolution. Based on the award-winning *Washington Post* series that documented the Republicans' day-to-day attempts to revolutionize the American government, *"Tell Newt to Shut Up!"* gets to the heart of the political process.

"Politicians put on the best show in town—and here they are with all their hypocrisy and idealism, self-service and public service, stupidity and sense, high drama and low skulduggery. It makes for wonderful reading."

—STEPHEN E. AMBROSE,
BESTSELLING AUTHOR OF *D-DAY* AND *UNDAUNTED COURAGE*

"This is a wonderful look inside the revolution. It is a vivid portrait of the ups and downs, ins and outs, of Newt Gingrich and the gang." —DAVID BRODER

DAVID MARANISS is the bestselling author of *First in His Class* and winner of the Pulitzer Prize for his articles on presidential candidate Bill Clinton. He is on the national staff of the *Washington Post* and lives in Silver Spring, Maryland.

MICHAEL WEISSKOPF has reported for the *Washington Post* for the past eighteen years. He is on the national staff of the *Washington Post*, covering Congress and lobbying. From 1980 to 1985 he was the *Post*'s correspondent in China. He lives in Washington, D.C.

A TOUCHSTONE BOOK
Published by Simon & Schuster New York

Cover design by Janet Perr

9 780684 832937 51000

05961000

U.S. $10.00
Can. $13.50

ISBN 0-684-83293-3

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Revenge of the Business Class

IN HIS ROLES as small-town industrialist, civic benefactor, and veteran congressman from the western hills of North Carolina, Thomas Cass Ballenger always displayed a talent for raising money. But the fund-raising never came easier than during the congressional elections of 1994, when he traveled around his state soliciting contributions for candidates who would serve as ground troops for the Republican Revolution. Wherever Ballenger spoke, checkbooks opened at the mention of the Occupational Safety and Health Administration, a regulatory agency that had emerged as a symbol of everything the business world disliked about the federal government. His vision of a House of Representatives controlled by Republicans, as Ballenger later described it, went like this:

"I'd say, 'Guess who might be chairman of the committee who'd be in charge of OSHA?'

"And they'd say, 'Who?'

"And I'd say, 'Me!'

"And I'd say, 'I need some money.' And—whoosh!—I got it. This was my sales pitch: 'Businessmen, wouldn't you like to have a friend overseeing OSHA?' "

Indeed they would.

They liked the idea so much that they immediately gave Ballenger more than $65,000 to distribute to Republican candidates, including five from North Carolina who went on to win seats previously held by Democrats. The partisan transformation of the Tarheel delegation was an essential part of the Republican takeover of the House, and it led, among other things, to a new and decidedly pro-management chairman for the House subcommittee on workforce protections: Cass Ballenger. A panel that for years had been controlled by the son of a Michigan auto worker killed in an industrial fire was now headed by a deceptively easygoing, sixty-eight-year-old good ole boy from Hickory who was educated at Amherst, inherited his family's box company, and made his fortune producing plastic bags for underwear.

Ballenger and his allies swiftly moved to make good on their campaign promise. With the strong support of business coalitions, including corporations that were both repeated OSHA violators and leading financial contributors to the Republican Party, they pushed the most concerted legislative effort to diminish the agency's powers since its creation a quarter century ago, moving to shrink the size of the investigative staff, shift the emphasis to consultation, eliminate independent research and mine safety operations, and curtail OSHA's powers to penalize workplaces that fail to meet federal health and safety standards. The attempt to refashion the safety and health agency, in combination with efforts to repeal wage and union security laws enacted over decades by Congress's old Democratic majority, amounted to what labor scholars called the most serious effort to rewrite the rules of the American workplace in favor of business interests in the postwar era.

It also was a serious effort to weaken organized labor and weaken a cornerstone of the Democratic coalition. Laws passed in the Depression years that protected the right of workers to bargain collectively, earn minimum wages, and go on strike without fear of replacement led to the dramatic growth of unions—and

to their commitment to reelect Democratic allies. Although in recent decades unions had declined significantly in membership and voting power by the time Gingrich and his troops arrived, incoming Republican leaders saw an opportunity to deliver what labor economist Harley Shaiken called "one final onslaught against the remaining power that labor has." But instead of dealing a final blow, the anti-OSHA effort backfired on the Republicans. Unions became revitalized by the threat, and later helped Democrats block initiatives that were even more central to the revolution.

In the early days of their power, Republicans insisted on challenging every totem of the old order, including the central question on which the vast federal health and safety system was based: Whom do you trust with a worker's welfare, the employer or a federal regulator? "I think employers now take a different approach with their workers than they have in the past," said Lindsey Graham, a freshman Republican from South Carolina and member of Ballenger's subcommittee. "My job is to get the government up to speed with the times. And the times for me are to reevaluate the role of the federal government in private business. If you believe that is the mandate, OSHA is a great place to start."

Although OSHA was established during the presidency of Richard Nixon and has been run by Republican-appointed administrators for eighteen of its twenty-six years, it was scorned by House Republicans as the archetype of a liberal program gone astray. They described it as a place where swarms of inspectors swooped down to intimidate innocent merchants, professionals, and manufacturers, where bureaucrats drown businesses in paperwork and are more interested in imposing fines than ensuring safety. "They need to do what the hell they're told," was the feeling of Charlie Norwood, a dentist from Georgia and the most intense of the Republican freshmen in his dislike of the agency. "They've been sitting in their little cubicles for twenty-five years thinking they knew what was best for every industry in this country. They don't. And they don't want to know. All they

want to know is what they can get away with to collect money from us."

Many Democrats found their position ironic. Year after year they had complained that OSHA was ineffective and needed more inspectors and tougher standards. In the 103rd Congress, before they lost control, Democrats had pushed legislation strengthening the agency in the very places where Republicans later sought to weaken it. But now they were caught in a rearguard action defending the status quo, arguing that the agency, for all its faults, had been a savior for American workers. They cited statistics showing that OSHA saved an estimated six thousand lives each year and led to significant decreases in workplace injuries and illnesses. Behind the cover of reform, they said, Republicans were exacting corporate revenge, using the paperwork complaints of small businesses to enrich the management class at the expense of blue-collar workers.

For years business had felt an obligation to pay homage to the Democratic masters of Congress, even when their interests differed. The Republican takeover created opportunities to bring politics in line with corporate objectives, none more important than rewriting labor laws and loosening the grip of government regulations. Corporations dedicated their lobbying armies to the anti-OSHA campaign, joining a debate that crackled with fiery rhetoric and melodramatic anecdotes. From the business world came a bumper sticker that only slightly exaggerated the prevailing sentiment: "OSHA is America's KGB—It Turns the American Dream into a Nightmare." In the matter-of-fact words of John Boehner of Ohio, a former plastics salesman who became a member of the House Republican leadership and its liaison to business: "Most employers would describe OSHA as the Gestapo of the federal government." Business leaders would pass along tales of bureaucratic overzealousness, such as the case in Augusta, Georgia, where a nonprofit group was fined $7,500 for using mothballs to chase squirrels out of the attic and failing to post a notice describing the chemicals in the mothballs.

From labor came a sarcastic title for Ballenger's effort—the

"Death and Injury Enhancement (DIE) Act." Democrat Major Owens of New York, ranking minority member of the subcommittee, used a congressional hearing to read off the names of men and women killed in the workplace and likened the toll to the death count in Vietnam. Unionists recalled workplace tragedies that might have been avoided if not for management carelessness, such as the case in Grand Island, Nebraska, where a maintenance man at a meat-packing plant had his "head popped like a zit," in the indelicate phrase of a co-worker, when he tried to retrieve his pliers from a carcass-defleshing machine that turned on because it lacked the required safety locks.

CASS Ballenger saw more than a few workplace injuries during his years as a manufacturer in Hickory, an industrial town whose streets are lined with hosiery mills. When he switched his family business from boxes to plastic bags, he often worked the machines himself. A contraption called the scoring machine was particularly troublesome, he said. "The clutch on it was mechanical and the dang thing always slipped. You'd be wiping grease off it and the cloth would get caught in the gears and—*thwack!*—it would just cut your fingers off." That was before the days of OSHA, Ballenger noted, and employers and workers relied on "simple common sense." Ballenger kept all his digits, but when someone at his plant lost a finger, he would say, " 'See what can happen? Put the guard back on and don't do that again.' You learn not to do that anymore."

From the first time inspectors visited his factory, his relationship with government regulators was quarrelsome. "They came into my plant and they told me that my loading dock was unsafe because it didn't have a barrier to keep people from falling off," he recalled. "And so I said, 'Well, let me ask you something, if you put a barrier up, how do you load?' They thought about it and said maybe they were wrong." Ballenger is a southern storyteller who acknowledges that he occasionally delves into hyperbole to make points. Whether the loading-dock inspection happened precisely as Ballenger remembered it is unclear. There are no records of the

event. But it is important for two reasons. First, in the business world's catalogue of nonsensical OSHA violations, an assortment that includes a number of utter myths, the loading-dock episode is prominently featured, told and retold in various versions around the country. Second, it shaped Ballenger's perceptions from then on as he dealt as a lawmaker with government regulators.

North Carolina is among two dozen states where federal workplace standards are enforced at the state level, a form of the devolution of power back to the states that is so popular with the Republican revolutionaries, in other instances at least. When Ballenger was in the state legislature in Raleigh, he sat on the committee overseeing OSHA and constantly fought with the state labor commissioner, John Brooks. "Every time John came in and said, 'We are underfunded and need more inspectors,' and told us how it was awful that we didn't think about the health and safety of the workers of North Carolina," Ballenger said, he would be thinking, "Here's this horse's ass who runs a lousy operation asking us for more money."

There was a personal aspect to Ballenger's animosity that extended beyond the loading-dock incident. He accused Brooks of conducting "political raids" on his bag plant, inspecting it three times only because he was a prominent Republican in what was then a Democratic state government. Brooks called the accusation groundless: Factories were chosen for inspection by a random computer system. "There is no human way to tamper with the system," Brooks said. "Cass knows that and was offered the opportunity to see it working."

"If you believe that," Ballenger responded, "I've got a bridge I'd like to sell you."

FROM the time he reached Washington in 1987 as a House freshman, boasting that he was the only member who had been cited for workplace violations, Ballenger worked on OSHA legislation with a group of Republicans on the old Education and Labor Committee. Their efforts were defensive, trying to stop the

Democrats and their labor allies from expanding the agency's powers. "Then all of a sudden, oops! We got control," Ballenger said of the 1994 elections. His first task as chairman of the workforce protections subcommittee was to pick a team of Republican lawmakers to help him dismantle the agency. "I wanted people sympathetic to the cause," he said. "I was looking for pro-business people."

Harris Fawell of suburban Chicago had been working with Ballenger on OSHA bills during the Democratic era and would be helpful this time around. Bill Barrett of Nebraska carried the complaints of the meat-packing plants in his district. Tim Hutchinson of Arkansas, whose district included the chicken giant Tyson Foods, would look out for the poultry processors. Peter Hoekstra of Michigan, who came out of the furniture industry, "hated OSHA with a passion," Ballenger thought. James Greenwood of suburban Philadelphia was the most moderate of the veterans, but Ballenger respected him. "I asked him where he would stand on OSHA," Ballenger recalled. "And he said, 'I'll be with you.' " Then Ballenger recruited three freshmen. He brought in David Funderburk, one of the gang of five from North Carolina. "Oh, I knew Funderburk. Hoo, boy!" said Ballenger, explaining that he considered his Tarheel colleague even more conservative than he was. When Lindsey Graham of South Carolina signed on, Ballenger hailed him as "a good ole southern boy—you can count on them every time." And finally there was Charles Norwood, the dentist from Augusta who arrived in Washington with OSHA dead in his sights. "Everybody knew about Charlie," Ballenger said, smiling.

For all the decades that the labor subcommittees were dominated by Democrats, Republicans willing to be assigned to them tended to be moderates. Now, in the era of Republican rule, Cass Ballenger looked at his group and declared that he was about to have some fun. "My subcommittee is so conservative it makes me look liberal," he said. "We could kill motherhood tomorrow if it was necessary." One of his freshmen put it another way. "This was a subchapter of the AFL-CIO for twenty years," said

Lindsey Graham. "Now everybody here talks slower—and with a twang."

THE lobbyists heard the twang, and took it as their call to action. At three on the afternoon of January 30, 1995, not long after the Republicans assumed control of Congress, some one hundred of the GOP's most powerful allies in the business world gathered in the Washington boardroom of the National Association of Manufacturers. Oil was there, and chemicals, along with freight and construction and steel and small business. They convened as members of a lobbying group known as COSH, the Coalition on Occupational Safety and Health, and they sensed that their time was at hand. "We're in a position to get something for employers," said coalition official Pete Lunnie, opening the meeting. As he spoke, Lunnie was struck by how unusual it all seemed, especially the optimistic tone. For several years, the business community had been on the defensive in Congress. The low point had come on April 8, 1992, when an executive had flown cross-country to testify before the House Education and Labor Committee, only to be ignored by the panel's chairman and never called on during a five-hour hearing. Lunnie sent out a membership memo the next day deriding what he called the "crude affront."

But now there were friends everywhere. Along with Ballenger and his subcommittee boys, two former members of the House labor panel had risen to power in the leadership: Armey, the majority leader, and Boehner, the GOP Conference chairman. John Boehner had been deeply involved in OSHA issues in past years and could be counted on again. But at the strategy session in Washington, Lunnie quickly focused on the most important ally. "Cass wants our input," he said. He asked the participants to identify their industry's most pressing problems with OSHA, a process that lasted ninety minutes. From that catalogue of gripes, Lunnie and his core group of lobbyists produced a consensus list of thirty recommendations for revising the agency. In late February, they typed out the suggestions on a single-spaced piece of paper, which they

presented to Chairman Ballenger. When Ballenger's subcommittee came out with the Safety and Health Improvement and Regulatory Reform Act of 1995 in early June, after the House had dealt with its Contract with America, there was little doubt among congressional insiders about who benefited from each section of the forty-seven-page document. Virtually everything on COSH's wish list was there.

The coalition was the largest of many business groups and lobbyists who found their way to Ballenger's office as the bill was being drafted. "I'd say that any businessman who happened to come up here to see someone in the House would come by my office and say, 'When you draw this thing up, will you look at this, please?' " Ballenger said. "We had several groups that came up with finished bills they wanted. The North Carolina Citizens for Business and Industry, of which I've been a member for thirty years, came up with a complete bill. COSH had ideas. We had ex-heads of OSHA come in here and give us advice. They all knew exactly what I should do."

The work of revising OSHA and rewriting American labor laws had already begun in Ballenger's shop even before the heavy lobbying started. Weeks before the 1994 congressional elections, James M. Eagan III, who was then the ranking minority aide on the Education and Labor Committee, had a hunch that the Republicans might gain control of the House and began organizing a plan of action. The staff drafted a document called "Agenda 104," named for the 104th Congress. It outlined the issues facing the committee and identified those of highest priority. Labor laws and OSHA topped the list. When Ballenger assumed control of the subcommittee, he delved deeply into the drafting process, choosing among legislative options presented by aides in daily briefings along with memos from corporate backers. Some industry lobbyists were brought in to press a point or explain its ramifications. Some were enlisted to draft specific provisions, others to vet them. While COSH and other groups enjoyed broad access to the process, one lobbyist had the inside track: Dorothy Livingston Strunk.

A coalminer's daughter from Pennsylvania who arrived in

Washington with a high school diploma, Dotty Strunk had undergone a long rise through the ranks to emerge as one of the most powerful voices in the workplace safety field. For years she had been a top Republican aide on the Labor Committee. In 1987, President Reagan nominated her to run the Mine Safety and Health Administration (MSHA), but her appointment was killed in the Senate after strong opposition from the United Mine Workers, who called her unqualified. During the Bush administration, she moved over to OSHA, where she rose from deputy to acting director.

Strunk later became a lobbyist for United Parcel Service, a company whose Santa Claus–like public image as the present deliverers covers an intensely political enterprise with a history of workplace difficulties. During the 1994 election cycle, UPS, which is one of the nation's top five employers and has offices in every congressional district, ranked as the nation's number-one PAC contributor, giving more than $2.6 million. Like many major PAC givers, it leaned heavily Republican after the GOP takeover, contributing more than a half million dollars to Republican House members alone—an average of $2,100 per member. For Ballenger and five members of his labor panel, the campaign purse opened wider. Together, they pulled in $30,000 from the delivery service.

The relationship between UPS and OSHA has been lengthy and costly. The agency has received more worker complaints against UPS than any other employer, resulting since 1972 in 2,786 violations and $4.6 million in fines. The company insists that most of the cases were minor. But according to data it supplied to the Teamsters Union, UPS workers suffered 10,555 lifting and lowering injuries that required more than first aid in 1992. As another measure of its safety record, the firm pays out more than $1 million a day in workmen's compensation.

UPS had an intense interest in loosening OSHA controls, particularly those dealing with cumulative stress disorders from repetitive motion or lifting. More than 180,000 of its workers perform such tasks, driving the boxy brown UPS trucks or handling packages. In Strunk, they had a lobbyist who not only knew OSHA regulations inside out but also had unusual access to the committee

where she had once worked. During the period when the bill was being drafted, it was not uncommon for aides to other congressmen to enter the committee offices and see Strunk emerging from a back-room meeting with Gary L. Visscher, the staffer assigned to writing the OSHA bill. When the first version of the legislation made the rounds in April, it was often referred to as "Dotty's draft."

Her influence was clear in Ballenger's bill. Strunk and other lobbyists from the construction and trucking industries wanted to blunt the only tool OSHA had to prevent cumulative trauma disorders such as carpal tunnel syndrome and back strain. The agency had been struggling for years to issue an ergonomics standard that would cover those health problems, but in the meantime invoked a general duties clause in its statute to deal with "recognized hazards" of the workplace that were not specially addressed. The general duty clause is used against a wide range of otherwise unregulated risks. Starting in the 1980s, it became a popular OSHA tool to prevent cumulative trauma disorders. By 1990, eight hundred ergonomic violations were imposed by OSHA—one-quarter of its general duty clause cases—costing employers more than $3 million in fines. Four UPS facilities were among those cited for package sorting and loading practices. Facing $140,000 in fines, the company contested the charges, arguing that because there were no specific ergonomic standards, it should not be accused of failing to meet them. OSHA backed off for lack of sufficient evidence.

The Ballenger bill offered an opportunity for corporations to achieve what had eluded them for a quarter century. His staff presented a number of options to narrow the general duty clause, adding language to limit its application. Then, at a crucial meeting in the chairman's office, Strunk presented a historical perspective that turned the discussion in favor of her client. The original drafters, she noted, wanted the clause to be used sparingly, but enforcers over the years stretched the provision to apply it more liberally. No restrictions, she implied, would hold for long.

Ballenger was in no mood to take chances. His bill effectively eliminated the general duty clause by preventing OSHA from imposing penalties where no specific standard exists. While the bill solved one problem for UPS, it might have created a bigger one at any other time. Without the general duty powers, pressure for specific standards to deal with the fastest-growing injury would be expected to increase. Half of today's workforce uses computers, requiring repetitive motion similar to that of slaughterhouse workers cutting meat and grocery store clerks using price scanners. OSHA was getting ready to unveil its ergonomics plans early in 1995.

But in the antiregulatory mood of 1995, Strunk easily headed off the plans. Toting a 628-page OSHA draft that she called "Ergo Light," she successfully lobbied House appropriators to cut off funds for issuing ergonomics standards. The freeze bought time for the Ballenger bill, which made it highly unlikely that new standards could be imposed in the future. The measure would require extensive analyses to justify the costs of a new rule to any industry, a long and complicated process. In addition, Ballenger was persuaded by Ashland Oil to have such justifications reviewed by panels of experts, including those from companies with potential interest in the outcome.

THE Ballenger effort was pro-business in its contours, turning a feared regulatory agency into what amounted to a consultant to employers. It would funnel half the budget into training programs and incentives for voluntary action. Large numbers of employers were exempted from random inspections and given more chances to avoid penalties, while the rights of workers to file OSHA complaints were diminished. As in the case of UPS and ergonomics, the fine print of the bill showed the influence of many industries. Chemical companies reached one of their longtime goals by keeping states from exceeding OSHA standards on workplace safety, such as the labeling of toxic substances. Another provision, inspired by Dow Chemical Company, would

free employers regulated by OSHA from other federal rules that were "potentially in conflict." Pushed by workplace subcommittee member Peter Hoekstra of Michigan, whose congressional district is close to Dow's headquarters in Midland, the provision was supposed to prevent double regulation. But critics saw it as a way for industry to bypass the tougher rules of other agencies if they could be shown to be remotely similar to those of OSHA.

The iron and steel lobby persuaded Ballenger to drop a requirement that records be kept for work-related illnesses, such as hearing loss, that do not result in medical treatment or lost time. OSHA uses such logs to target troubled industries for inspection, a practice particularly threatening to the noisy primary metals industry, because OSHA was planning to tighten standards for hearing loss. The number of reported cases was almost certain to rise and draw the scrutiny of OSHA inspectors—unless the record-keeping requirement was waived.

One of the most sweeping of Ballenger's proposals would abolish the federal agency charged with mine safety and transfer its reduced regulatory powers to a weakened OSHA. The Mine Safety and Health Administration was regarded as a regulatory success story, bringing about a sevenfold drop in mine fatalities since 1968. Ballenger's bill gave it weaker enforcement powers against unsafe mines and looser training and inspection requirements. Instead of four inspections per year, underground mines would face one. The requirement for two surface mine inspections a year was dropped. Ballenger explained the decision as a budget-driven effort to save money and streamline federal authority. But larger economic constituencies loomed in the background. The most influential background adviser advocating the merger was Dotty Strunk, who after leaving government worked for a law firm that represented mining interests.

The proposal was supported by owners and operators of the rich East Kentucky coal fields, whose small mines are among the most dangerous and the latest targets of MSHA. And in the northeast corner of Ballenger's district, Mitchell County is the nation's

largest producer of feldspar, a sandlike mineral mined on the surface and used in ceramic and glass products. Ballenger met with an official of one of the mining outfits there: "He said what really bugged him was, being above ground and so forth, he gets inspected by both OSHA and MSHA. So he's got two sets of rules to work off."

WHILE there was basic agreement among subcommittee members and industry allies about the scope of the OSHA bill, there were some moments of tension. Freshman Charlie Norwood, the dentist from Augusta, thought the bill seemed too timid, tinkering with the system instead of remaking it. Several lobbyists shared his view. In May, a few weeks before the measure was presented, Norwood and his freshmen compatriots requested a meeting with Ballenger. They asked John Boehner from the leadership to help them make their case.

Boehner had spent much of the past four years working on OSHA revisions that went nowhere because of the previous Democratic majorities. He generally agreed with Norwood that staffers drafting the bill with Strunk's assistance "seemed to be too locked in on what is instead of developing a completely new vision of what could be." On the other hand, he had heard about Norwood's sentiment to just close OSHA down entirely, and realized that was not politically possible. When the meeting began, Boehner said, he was more on the side of Norwood and the freshmen. But soon enough he found himself aligning with Ballenger, explaining to Norwood why certain things could not be done.

"Charlie wanted to prevent OSHA from entering the workplace where there was a serious accident or death if the employer's lost-work ratio was below the industry average," Boehner recalled. "It was one of those issues where you had to walk Charlie through the politics of it, the practicality of it. The politics of it are: 'Charlie, how do you defend that?' If you're going to have OSHA and your goal is to create greater safety in the workplace and somebody dies in the workplace, you have to let them in."

Norwood had been taking aim at OSHA since the day he announced for Congress early in 1994, calling himself a dentist and small business man "who just got pushed too far" by government regulators. It had started for him a decade earlier, when OSHA began taking an active role in the dental profession to ensure that employees and patients were not endangered by bloodborne pathogens such as the AIDS virus. Dentists, Norwood said, did not need to be inspected to maintain safe offices. He became so upset by the federal health and safety standards, which he said required his dental team to use two hundred pairs of gloves each day and set up laundry services within his office, that he began placing an explicit "OSHA surcharge" on the bills he sent to patients. The charges amounted to about $10 per visit. When patients complained, Norwood told them to call their congressman.

Then he decided he wanted to be the congressman. Although he had never run for political office, he had developed a state and national political network of dentists from his earlier position as president of the Georgia Dental Association. Much like Ballenger in North Carolina, Norwood had been motivated in part by personal experience. The Department of Labor had once investigated him for not paying overtime to his office aides after a disgruntled former employee filed a complaint. Norwood said it would have cost him more to fight the complaint than settle it, but he never forgot the $10,000 incident. From then on, he referred to federal investigators as "storm troopers."

One morning on the campaign trail, he turned to a young aide and asked him to find out who was in charge of OSHA. The assistant called Washington and learned that it was an undersecretary of labor named Joseph Dear. From then on, whenever he spoke to businessmen in his district, Norwood would say, "You know, that fellow Joe Dear, well, when I get up to Washington I'm gonna call that Joe Dear at five every morning and explain to him the problems at OSHA." He never followed through on that campaign vow, but he did invite Dear to meet with him in his congressional office. Norwood complained that the bloodborne pathogen standards were so strict that dentists felt they could not give children their extracted

teeth. It was a story that Norwood and other dentists had been telling for years, so common that it even had a name—The Tooth Fairy Story—and like so many of the OSHA "horror stories," as they are called, it fell somewhere between reality and myth, but closer to myth. Some dentists did stop giving out teeth, but there was nothing in the law that prevented them from doing so.

Norwood also asked Dear about another common story—that OSHA regulations prohibited roofers from chewing gum on the job. Dear said there was no such regulation. Norwood later claimed that he had caught Dear in a lie. Again, the anti-OSHA troops were weaving a thread of reality into a fabric of myth: OSHA standards did say workers should not chew gum in one case—when they were working "in an area where the level of asbestos is so high that chewing could result in the ingestion of asbestos."

While Norwood and other Republicans on the subcommittee relied on their catalogue of horror stories to make their case against OSHA, the struggle had a strong economic and political component to it as well. PAC contributions from corporations lobbying on OSHA and other labor laws dominated Norwood's list of donors since his election. Two-thirds of the money he raised to retire his campaign debt came from members of those lobbying coalitions. More than half of the $230,000 he raised from PACs for his next election came from those same groups, boosting him to fourth place among freshman recipients of PAC money. Dentists, who played an active role in the anti-OSHA movement, contributed more than $90,000 to his last campaign. In return, Norwood essentially made dentists exempt from OSHA safety inspections: they fell into the category of small businesses that would no longer be visited by the green and yellow-jacketed OSHA investigators. Dentists gave thanks: $45,000 in contributions to Norwood in his first year in office.

Subcommittee member Bill Barrett's largest source of money was from the meat, poultry, and sugar interests, all of which were pushing to relax OSHA controls of their industries. His largest contributions in 1994 and for 1996, totaling $11,800, came from ConAgra, the agribusiness giant, which also accounted for the

largest OSHA violations in his district in the past five years. ConAgra's mammoth Monfort meat-packing plant in Grand Island was hit with fines of over $625,000 after a series of incidents there, including the death of a maintenance man who was beheaded by a machine that should have had a safety lock.

More than one-third of the PAC money raised by Chairman Ballenger in 1994 came from corporations that were lobbying for OSHA changes. When he took the chairman's seat in 1995, the ratio jumped to 70 percent. The most generous donor both years was UPS's PAC, giving a total of $15,000. The single largest contribution he solicited for the National Republican Congressional Committee was from Glaxo Inc., a major North Carolina chemical firm that had a long history of working in tandem with Ballenger to fight OSHA. When Ballenger was in the North Carolina legislature, Glaxo was fighting a revision in the law that would have required it to have a locked mailbox at the plant gate that contained all of the reports on chemicals shipped into the plant each day. "You had to change it every day if you received chemical shipments every day," Ballenger recalled. The company considered it a paperwork headache. "Luckily," said Ballenger, "I killed the hell out of it."

THE complaint from labor and Democrats for years was that OSHA was doing too little. Of the seventy thousand hazardous chemicals used by industry, the agency had set standards for only twenty-five, an average of one each year. It had only in the last two years begun moving seriously on ergonomics—a regulation that employers fear above all others, and that several unions see as their rallying cry for the next generation. Its inspections were few and far between. In different states, the average company might be inspected once every seven to twenty-three years. In the aftermath of the most calamitous workplace disaster of the 1990s, the September 3, 1991, fire at Imperial Food Products in Hamlet, North Carolina, where twenty-five people died because there was no sprinkler system and the fire doors could not be opened from

the inside, it was discovered that OSHA had never inspected the plant.

There were significant gains in some areas, however, which strengthened the resolve of OSHA supporters as they fought for the agency's life. The impact of regulatory intervention in certain high-risk industries is clear. There have been 58 percent fewer deaths in grain handling and 35 percent fewer deaths in trench cave-ins since OSHA cracked down on those industries. The number of textile workers suffering from brown lung—a crippling respiratory disease—fell from 20 percent of the industry workforce in 1978, when OSHA set limits on worker exposure to cotton dust, to 1 percent seven years later. Democrat Major Owens of New York said that the Republican attempts to change the American workplace amounted to a declaration of war on the nation's working men and women.

But Lindsey Graham said the Democrats and labor were mistaken if they thought they had the working people on their side. Graham, forty-one, grew up in the textile town of Seneca, South Carolina, where his parents ran the Sanitary Cafe, a bar outside the factory gate. It was a beer and hot dog place with a jukebox that played "Satin sheets to lie on, satin pillows to cry on." When the factory shift changed at three every afternoon, young Graham would see mill workers "come in with their shirts covered with cotton, white as they could be. There'd be a finger missing on every other person." Although he considered his hometown an "Andy Griffith of Mayberry–type place," Graham also saw the failings of the old system. The textile plant treated its workers like children, he said, and placed a greater emphasis on productivity than safety.

Graham understood that it was necessary for the government to intercede and make workplaces safer, just as he realized that the segregated system his parents were part of—they made black workers buy beer from a takeout window out back—was wrong and required the force of government action to eradicate. But by the time Graham ran for Congress in 1994, he had been convinced that the pendulum had swung too far toward federal intervention. He thought the role of the government in mandating affirmative

action and regulating workplaces had "gone from being helpful to being the biggest obstacle dividing and polarizing the nation by race and by employers and employees."

It was his generation's mission, Graham said, to "correct the excesses of government from the past generation."

One day during his congressional race, Graham had what his campaign manager, David Woodard, called "an epiphany." Graham had delivered a noon speech at a small-town Rotary Club, where he received a tepid response. Concerned that he had not figured out how to tap into the old southern Democratic establishment, Graham then paid a visit to a textile mill on the edge of town. He later told Woodard that the plant manager was so agitated he threw a sheaf of papers to the ground and bellowed, "No more damn Democrats! They've got all these inspectors on me. All these crappy regs!" Afterward, Graham placed an excited call to his campaign manager. "We may not have the Rotary, but we have the people running the mills," he said. And maybe the people working the mills. From then on, he picked up the theme of government deregulation, a message that helped him become the first Republican elected in his district since Reconstruction.

He brought the message to Washington and let it resonate one spring day at a subcommittee hearing as he listened to the testimony of Labor Secretary Robert Reich, the Harvard professor who for years has advised Democrats on the declining competitiveness of American workers. Graham, who won 60 percent of the vote in a district where the average income was $13,200, said he counted the times Reich used the phrase "working stiff" in his presentation. The labor secretary uttered those words twenty-one times. "Working stiff?" Graham thought to himself. "The working stiffs elected me." They chose him over the Democrats. He asked Reich one question: "How do you reconcile your agenda with my election?"

WALL ST. JOURNAL

Work Week

JAN. 7, 1997

A Special News Report About Life On the Job — and Trends Taking Shape There

OSHA'S INSPECTIONS hit record lows, irking unions.

The safety agency performed 24,024 inspections in the fiscal year ended Sept. 30, down 17.5% from the year earlier and a 43.3% drop from 1994. The reasons: a hiring freeze, last year's government shutdown and the agency's move to cooperate more with businesses rather than penalize them, spokesman Stephen Gaskill says.

The trend is "quite troubling and problematic," says Peg Seminario, AFL-CIO director of safety and health. Without more enforcement, she adds, OSHA is "no longer a credible threat." Some union officials hope new leadership at the Labor Department, with Labor Secretary nominee Alexis Herman, will be more responsive. The National Association of Manufacturers calls the agency's new approach "necessary."

Outgoing OSHA chief Joseph Dear's last day is Friday. Employees plan "a sad party," Mr. Gaskill says.

POLITICS & POLICY

Budget-Cutting Republicans Repackage Pork As Regulatory Relief for Their Business Allies

By David Rogers
Staff Reporter of The Wall Street Journal

WASHINGTON — In the last Congress, Rep. Henry Bonilla proudly announced spending for such things as a new transit project for his Texas district. These days, he makes news by *cutting* funding for federal labor rules.

"Bonilla Eliminates Funding for Enforcement of Cardboard Baler Regulation," reads one news release sent out last month.

Rep. Henry Bonilla

In truth, the Republican lawmaker—and former television newsman — hasn't changed so much as the House and the Appropriations Committee on which he sits. In this era of budget cuts, there is less money to help pay for projects back home. Instead, to reward business allies — and advance the GOP's deregulatory agenda — a new brand of pork-barrel politics has emerged: exemptions from burdensome federal regulations.

Dozen of Riders

Before going home for the August break, House Republicans saddled spending bills with dozens of riders — like Mr. Bonilla's baler provision — to curb activities by labor and environmental agencies. Grocers, auto dealers, truckers, home builders and the oil, insurance and cement industries were just some of the beneficiaries. Meantime, hundreds of thousands of dollars in campaign contributions from business and trade groups have flowed increasingly to the GOP.

Republican governors first opened the door by pressing the new Congress for relief from clean-air rules. And Democrats have used the same type of riders in the past to protect their own friends in the dairy industry, for example, from deregulation. But while the Senate seems less inclined than the House to add so many riders, nothing for decades has matched the sheer number of special-interest legislative provisions attached to spending bills this year.

A rising star in the House, Mr. Bonilla was in the thick of the fray. Grocery interests wanted his baler provision as part of an industry campaign to overturn what it sees as outdated work-safety restrictions that bar 16- and 17-year-olds from using baler machines that crush cardboard cartons. Auto dealers backed a similar Bonilla rider to relax rules on the use of [illegible] workers to move cars between [illegible] Americans with [illegible] and motor [illegible]. Both riders were [illegible] amendment to deny funding to the Labor Department for development of new workplace safety rules for jobs that require repetitive chores like lifting.

'Bad Rules'

"Bad rules are bad rules . . . ," Mr. Bonilla says. "It doesn't matter who brings these issues to my attention. I'll fight to do what's right. These are small-business issues. . . . It makes sense that those who support free enterprise would also support me politically because we're doing what's right."

At least a dozen political-action committees — with a stake in House riders this summer — have given more than $45,000 to Mr. Bonilla's campaigns since he came to Congress in 1993. More striking is the consistency with which so many of the same corporations or trade groups have aligned themselves on a larger scale with the new GOP leadership.

Under Democratic rule, businesses often spread their money between the two parties. Now there is a new toughness. Republicans are blunt to warn corporations against backsliding. And by delivering as it did with the riders, the leadership also fulfilled its part of the new alliance.

Some examples:

• Food Marketing Institute, representing the supermarket industry, actively lobbied on behalf of Mr. Bonilla's baler provision, and its endorsement was even printed in the Congressional Record. Federal Election Commission records show that so far this year, the organization's political committee already has given $120,000 to members of Congress — more than 80% of which went to Republicans. An additional $22,000 went to the House GOP's campaign committee in "soft money" contributions that aren't directed at any specific candidate.

• The National Automobile Dealers Association, which backed Mr. Bonilla's rider for the industry, gave more than $1.8 million to congressional candidates in the last election, while favoring the GOP by a better than 2-1 margin. The gap is larger this year, and of the $261,325 so far given to members of Congress, Republicans got more than three-quarters.

• UPS, the American Trucking Association and the National Beer Wholesalers Association have sought to block the Labor Department's Occupational Safety and Health Administration from developing so-called "ergonomic" standards to deal with worker injuries from repetitive motions or lifting. Mr. Bonilla's rider serves this purpose, and together the three organizations have given more than $531,000 to GOP candidates this year — three times what they gave Democrats. UPS has been prominent as well in giving $30,000 in corporate money to the Republican National [illegible] — exception to figures compiled by Common Cause.

[illegible] pressing for House riders restricting the National Labor Relations Board, which is caught in a dispute with one of the company's trucking units. Union Pacific has given the GOP more than $147,000 already this year in the form of corporate funds or PAC donations to individual members. By comparison, Democrats have received about $10,000.

• The National Association of Home Builders, oil refiners and the cement industry each had a part in House environmental waivers. Home builder PAC contributions favor the GOP 4-1 this year. Ashland Inc., a leader in the refinery fight, tilts heavily to the GOP and gave more than $30,000 separately to the House Republican campaign committee. The American Portland Cement Alliance, an industry trade group, plays down its role in the appropriations debate, but its leadership was also prominent this year in fund-raising for the GOP.

A Sell-Out?

Liberal, more pro-labor interests accuse Republicans of a sell-out. "This is a transparent abuse of the appropriations process to reward special-interest campaign contributors," said Public Citizen's president, Joan Claybrook, this month. And Republicans, too, share some of these misgivings.

House GOP moderates waged a brief rebellion this summer, and even some of the strongest critics of federal rule-making prefer a different approach. C. Boyden Gray, the Bush-era White House counsel who remains active in the debate over broad regulatory overhaul, says some regulations are excessive and need to be overturned. But single-shot waivers can be a slippery slope, he says. "It's not the weapon of choice."

In this context, the 41-year-old Mr Bonilla is a small player next to his fellow Texan, Majority Whip Tom DeLay, a fierce advocate of the appropriations riders. One of the summer's most enduring images was of the stocky whip and New York Rep Bill Paxon, the boyish-looking chairman o the House GOP campaign committee, ben over the electronic tallying machines or the House floor during a close vote on the riders.

Mr. DeLay's own rise in the leadership was built on his ability to steer business contributions to incoming Republican freshmen last year. And Mr. Paxon is a link to not only the campaign apparatus but also the pro-business House Commerce Committee, which was a behind-the-scenes player in adding the deregulation riders to spending bills.

"Our pork is freedom," Mr. DeLay said with a defiant smile last month. And weeks later — when the last bill limped out of the House past midnight on a narrow margin — he smiled again at the suggestion that he might have overloaded the measure.

"No bill is overloaded if it passes," he said.

Following the Money

1995 Business and trade group political-action committee donations by party: (in thousands of dollars)

	REPUBLICANS	DEMOCRATS
United Parcel Service	$265	$93
National Beer Wholesalers	175	33
Home Builders	104	26
Food Marketing Institute	100	19
Union Pacific	73	10

Source: Federal Election Commission records

DELIVERING THE BUCKS

United Parcel Service hikes political contributions in what some see as an attempt to buy influence in its battle to curb health and safety regulations

By Arthur Brice and Rodney Ho
STAFF WRITERS

In the shipping business, United Parcel Service is known as "Big Brown" because of its chocolate-colored trucks and uniforms. In politics, UPS could well be known as "Big Green" because of the millions of dollars it gives to federal candidates.

In fact, federal records show the UPS political action committee was the largest contributor to Senate and House candidates for the 1993-94 election cycle. The shipping giant, which relocated to Atlanta in 1991, gave nearly $2.65 million to 562 candidates during that two-year period. With a new Congress sworn in a year ago, UPS handed out another $828,094 to 341 politicians during the first 11 months of 1995.

UPS officials say they're just playing by the rules, that they have to spend that kind of money to stay ahead of their competitors and opponents.

Of particular concern are the Teamsters union, which represents more than half the company's 330,000 employees; the U.S. Postal Service, which competes with UPS but doesn't have to pay taxes or fall under the purview of federal workplace regulations; and the Occupational Safety and Health Administration, the federal agency set up in 1970 to protect workers.

"We're not trying to play on an unbalanced playing field," said Joe Schneider, UPS vice president for human resources. "We have to go 100 yards for a touchdown. They have to go 20."

But, some observers say, UPS knows how to score.

"You have to recognize that in Washington money buys access, and access is influence," said Josh Goldstein of the Center for Responsive Politics, a nonpartisan research group that focuses on campaign financing. "Money follows power."

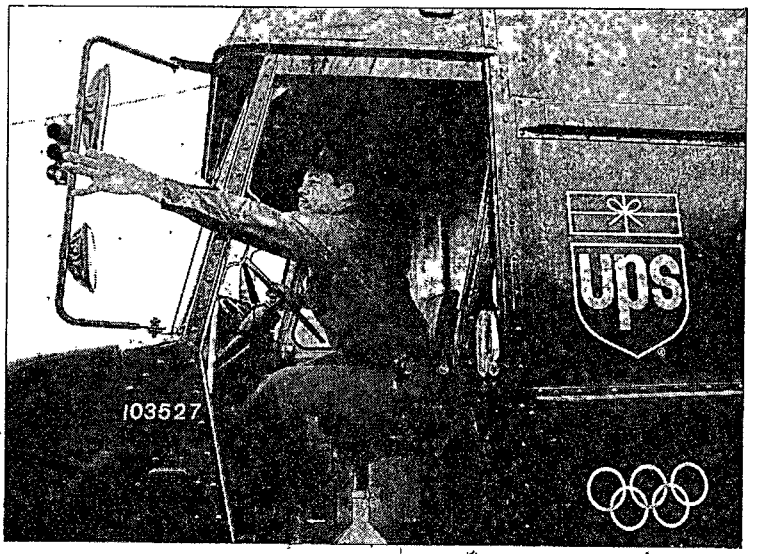
Donations up by $1.2 million

Calling it "unprecedented," Goldstein notes that UPS donations jumped by $1.2 million in 1993-94 over the previous two-year period.

"When you see that kind of shift," he said, "it's a pretty good indication they're not interested in good government at large, but interested in good government for UPS."

Goldstein sees a simple reason for UPS' newfound largess: OSHA.

"UPS is one of the companies that has the most citations for violations from OSHA," he said.



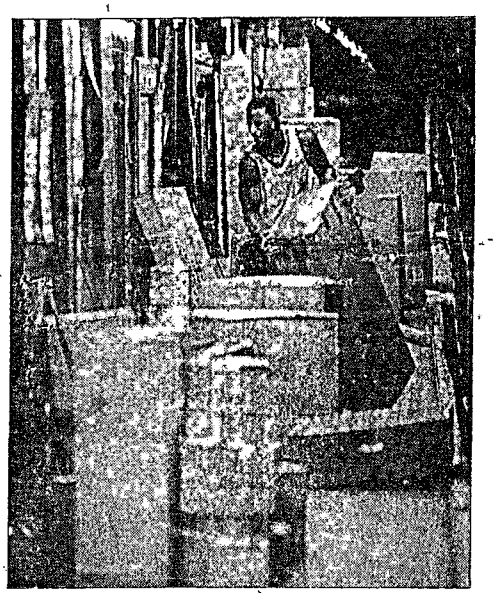
Photos by STEVE DEAL / Staff

Keith Kincaid adjusts his mirror before leaving from the Pleasantdale UPS facility in Atlanta. UPS is known as Big Brown in the shipping industry.

"Here's a company that has an atrocious health and safety record. Instead of putting a lot of their energy and money into addressing that problem, they're up on Capitol Hill spending money to try to kill an ergonomics standard . . . and gut OSHA's enforcement power."

■

RAND WILSON
Teamsters' spokesman



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Incumbents are more likely to get contributions

By Arthur Brice
STAFF WRITER

In the 1994 elections, United Parcel Service gave U.S. Rep. Buddy Darden $10,000. Bob Barr, his Republican opponent for Georgia's 7th District, got nothing from UPS.

But within months of Barr's victory, the new congressman had received a $5,500 check.

In Washington, this is business as usual. And the UPS political action committee is not much different from most other business PACs: It generally supports incumbents, it gives generously to first-term politicians and it looks for friends among Senate and House committees that might affect its dealings.

"It's almost hard to name an issue that doesn't matter to us," said UPS lobbyist Matt Branam, as he ticks off a list: transportation, aviation, taxes, environment, labor, international trade, telecommunications, postal oversight.

UPS officials say, though, that there's a simple criterion for who receives the company's money.

Bob Barr got no campaign contributions from UPS but received money from its PAC a few months after taking office.

"We typically apply a litmus test: Does that member take an interest in learning about our business?" Branam said. "That is Nos. 1, 2, 3, 4 and 5 on a list of six reasons of who we support."

But Branam also said, "We're going to support people who support our point of view."

Chances of getting a large check from UPS increase if you're an incumbent — or a first-term member of Congress sitting on a crucial committee. Federal election records show, for example, that U.S. Rep. Pat Danner (D-Mo.) got $15,250 from UPS during her first term in 1993-94. Her committee assignment? Transportation and Infrastructure.

Pat Danner, a UPS favorite from Missouri, sits on a committee critical to UPS' business, Transportation & Infrastructure.

She was not an isolated example. A review of federal election records for 1993-95 shows that UPS often favored politicians who sat on transportation, commerce, government reform and oversight and economic development committees.

The campaign finance records also reveal that UPS contributions shifted along with the political changes in Washington. In 1993-94, when Democrats controlled Congress, UPS gave about $1.36 million to 295 Democrats and more than $1.27 million to 266 Republicans. One third-party candidate got $9,500.

But for the first 11 months of 1995, after Republicans had wrested control of both houses of Congress, UPS heavily favored the GOP. Through the latest reporting period, UPS had given $528,565 to 213 Republicans and $299,529 to 128 Democrats.

UPS says it's not favoring Republicans.

"We have a huge freshmen class coming in with a new majority," Branam said. "We have a lot of people we have not supported before. You'll see the difference in spending between Democrats and Republicans come a lot closer."

The employee-owned company's deep political pockets come from its managers.

Seventy-six percent of UPS managers contribute to the company's political action committee, said Joe Schneider, vice president for human resources. That amounted to more than $2.85 million collected during 1993-94.

"We're all partners and owners in this business," Schneider said. "Our managers are very aware. . . . That's the key to the success of our PAC."

DELIVERING THE BUCKS

United Parcel Service hikes political contributions in what some see as an attempt to buy influence in its battle to curb health and safety regulations

By Arthur Brice and Rodney Ho
STAFF WRITERS

In the shipping business, United Parcel Service is known as "Big Brown" because of its chocolate-colored trucks and uniforms. In politics, UPS could well be known as "Big Green" because of the millions of dollars it gives to federal candidates.

In fact, federal records show the UPS political action committee was the largest contributor to Senate and House candidates for the 1993-94 election cycle. The shipping giant, which relocated to Atlanta in 1991, gave nearly $2.65 million to 562 candidates during that two-year period. With a new Congress sworn in a year ago, UPS handed out another $828,094 to 341 politicians during the first 11 months of 1995.

UPS officials say they're just playing by the rules, that they have to spend that kind of money to stay ahead of their competitors and opponents.

Of particular concern are the Teamsters union, which represents more than half the company's 330,000 employees; the U.S. Postal Service, which competes with UPS but doesn't have to pay taxes or fall under the purview of federal workplace regulations; and the Occupational Safety and Health Administration, the federal agency set up in 1970 to protect workers.

"We're not trying to play on an unbalanced playing field," said Joe Schneider, UPS vice president for human resources. "We have to go 100 yards for a touchdown. They have to go 20."

But, some observers say, UPS knows how to score.

"You have to recognize that in Washington money buys access, and access is influence," said Josh Goldstein of the Center for Responsive Politics, a nonpartisan research group that focuses on campaign financing. "Money follows power."

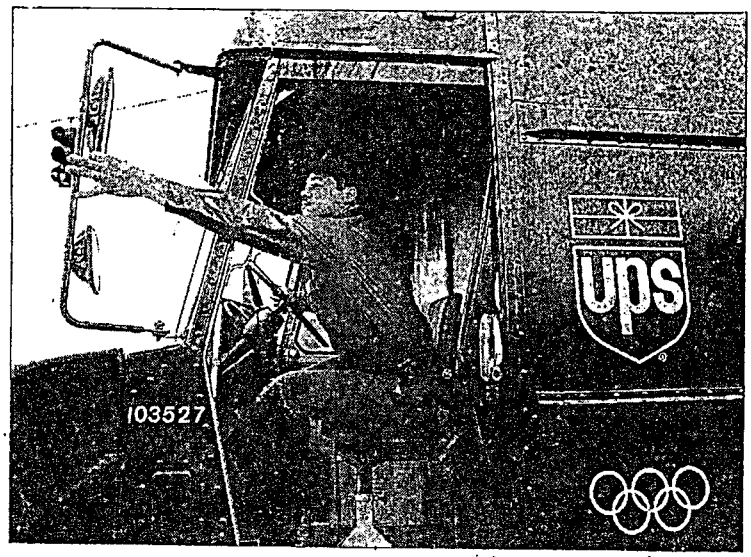
Donations up by $1.2 million

Calling it "unprecedented," Goldstein notes that UPS donations jumped by $1.2 million in 1993-94 over the previous two-year period.

"When you see that kind of shift," he said, "it's a pretty good indication they're not interested in good government at large, but interested in good government for UPS."

Goldstein sees a simple reason for UPS' newfound largess: OSHA.

"UPS is one of the companies that has the most citations for violations from OSHA," he said.



Photos by STEVE DEAL / Staff

Keith Kincaid adjusts his mirror before leaving from the Pleasantdale UPS facility in Atlanta. UPS is known as Big Brown in the shipping industry.

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UPS agrees to pay federal fine

Ex-employee says he was pressed for political donations

By Ray Gibson
TRIBUNE STAFF WRITER

Four years ago, a former supervisor in United Parcel Service of America Inc.'s plant in Princeton, Ill., charged that his supervisors intimidated him and implied he would lose his job if he didn't donate to a political fund that company formed.

Now, the company has agreed to pay a $9,000 fine to the Federal Election Commission and explicitly inform employees of their right to refuse to contribute without reprisals.

Although the dollar amount of the fine is small, the company last month agreed to it in an unusual case that could have national implications on how companies solicit their employees for donations to political funds known as political action committees.

Michael Kohr was a supervisor with UPS for 10 years until he quit in 1992. But he was so frosted with how the Atlanta-based company had solicited political donations that he filed a complaint with the election authorities a year after leaving the firm.

Kohr had been among a group of Princeton supervisors who failed to donate to the company's political action committee, UPSPAC, in 1989 when it was first formed. Kohr complained that the company cranked up its efforts in the following years to ensure more supervisors would donate, after only 17 percent of UPS supervisors donated in 1989.

In 1990, he and fellow supervisors were summoned to several meetings where his employers presented regional breakdowns of expected donation levels to the political action committee and were told that those who didn't donate didn't deserve to work for the company.

"I was subjected to intimidation, harassment, and pressured into donating money," Kohr wrote the FEC in 1993.

The FEC said that although UPS did disclose to all employees who were solicited that failure to donate would not affect their jobs, it failed to include such a disclaimer in solicitation materials it passed out over a five-year period.

And the election commission said the company officials failed to issue such a disclaimer at follow-up meetings that it held with the supervisors.

"Basically, the contributions to our PAC have always been voluntary and we have always made it known to our folks," said a company spokeswoman. While she wouldn't comment of the specifics of Kohr's complaint, she said the company policy is not to put pressure on any individual to donate.

The company's PAC has been successful at raising cash. In the 1995-96 election cycle, it raised $2.9 million from supervisors and donated $2.9 million to political candidates and committees. In the first 10 months of this year, it has raised $1.1 million, despite the nationwide strike this year that affected 185,000 union employees. The union employees do not contribute to the PAC.

FEC decisions in matters like the UPS case are used as precedents in deciding how the commission will handle future cases.

facts about...

UPS and Worker Injuries

The federal Occupational Safety and Health Administration (OSHA) receives more health and safety complaints about UPS than any other company.

- Since 1990, OSHA documented over 1,300 violations at UPS. More than one-third were designated "serious" and UPS was fined about $3.7 million.
- In the first half of 1995 alone, UPS recorded 35,519 injuries to workers.
- UPS pays almost $1 million a day in workers' compensation.
- In the early 1990s, UPS was cited for widespread violations of OSHA's hazardous materials and record-keeping standards. The company reached a corporate-wide settlement and paid nearly half a million dollars in fines to settle these complaints.

Primary causes of injuries at UPS are the high speed, heavy lifting, and repetitive work that employees are required to do.

- Teamster members who sort packages handle as many as 1,600 packages per hour — that's about 27 per minute — weighing up to 150 pounds each.
- A UPS delivery driver climbs in and out of a truck carrying heavy packages hundreds of times each day. Pressure to meet company schedules often forces drivers to run while carrying packages that weigh as much as 150 pounds.
- At every stop, the driver has to use a 3.7-pound hand-held computer unit, called a DIAD, using both thumbs to enter data. The DIAD's awkward design has resulted in painful and incapacitating repetitive motion injuries to thumbs, hands, wrists, and elbows.

Injuries to UPS workers can be prevented. OSHA has recommended that UPS correct its safety problems by...

- Instituting new engineering controls and redesigning work stations.
- Slowing down and hiring more people to do the work.
- Improving training and education.

Instead of fixing its safety problems, UPS hired high-priced lobbyists to "fix" OSHA.

- In California, UPS hired U.S. Supreme Court Justice Antonin Scalia's son, who helped them defeat a state ergonomics standard on lifting, repetitive motion, and other injuries.
- To fight federal ergonomic standards, UPS hired Dorothy Strunk, former Acting Director of OSHA under George Bush. She put together a bill, sponsored by Rep. Cass Ballenger (R-NC), to shrink OSHA's investigative staff, make more compliance voluntary, cut research, and curtail OSHA's powers to penalize health and safety violators.
- UPS also backed two efforts to limit OSHA's ability to gather information about injuries. One is a legislative initiative prohibiting record-keeping on ergonomic related injuries. UPS also went to federal court seeking to eliminate penalties for employers who don't respond to a government injury survey that enables OSHA to target enforcement and assistance to companies like UPS with the highest injury rates.

For more information, call Teamsters Communications (202) 624-6911

Please Post

SATURDAY, AUGUST 9, 1997

Government Forces UPS Workers To End Strike & Give Up

You never saw that headline before because it never happened —

— but it *could* have.

In August, 1997, House Speaker Newt Gingrich tried to get the government to force UPS workers back to work without all the gains we needed.

But Teamster families fought back — with rallies, petitions, letters, emails, and phone calls telling the government not to interfere.

Now, UPS is funding groups that are trying to basically *outlaw* that kind of Teamsters grassroots political action.

Companies like UPS already outspend working people in politics by 11 to 1.

They want to create so much red tape for Teamster members that we could no longer use *any* money to make our voice heard — on overtime pay, protecting pensions, education, or any other issues.

To find out how you can help defeat these proposals, ask your Teamster steward or local union.

Call your Representative in Congress. Ask him or her to oppose H.R. 2608 or any attempt to restrict our right to speak out.

TEAMSTERS FIGHTING for the FUTURE

Don't Let Big Business Silence Your Voice!

"Sit Down and Shut Up!"

That's Corporate America's latest message to every working family. They're behind efforts in Congress to silence the voice of working families in politics.

Big Business is mad that working families are standing up and winning on key issues:

- ***We stopped them*** from eliminating the 40-hour work week and guaranteed overtime pay.
- ***We stopped them*** from gutting our workplace health and safety rights.
- ***We stopped them*** from destroying good American jobs by expanding NAFTA under Fast Track and using $7-a-day trucks from Mexico on U.S. highways.
- ***We stopped them*** from cutting Medicare to pay for tax breaks for the rich.
- ***We stopped them*** from letting companies loot our pensions.

Big Business can't beat us on the issues, even though they outspend workers in politics by 11 to 1. Now they want to throw us out of the game by pushing new regulations to stop union members from using money for rallies on key issues, guides showing how public officials vote, alerts on legislative proposals, or support for political candidates who stand up for working families.

Don't Let Big Business Silence YOUR Voice!

- **Call your U.S. Representative in the U.S. House toll-free at 1-800-522-6721 and ask him or her to oppose H.B. 2608 or any other efforts to silence our voice.**
- **Talk to your family, friends and neighbors about this threat to working families.**

Send Us Your Comments

© 1998 The International Brotherhood of Teamsters

UPS: Don't Break Our Backs!

UPS employees who handle heavy packages all day long shouldn't have to worry about being injured on the job.

A safe place to work is our right—not a privilege.

Yet ***every day,*** Teamsters at UPS are seriously hurt on the job. And after UPS ordered us to lift packages weighing up to 150 pounds, Teamster members were exposed to even more dangerous conditions.

The federal agency that watchdogs safety for workers (OSHA) gets more complaints about UPS than any other company.

That's why OSHA told UPS to slow down—and hire more people to get the work done.

But instead of dealing with the problem, UPS now pays almost a ***million dollars a day*** in workers' compensation costs.

How Has UPS Put Our Safety at Risk?

UPS has spent millions of dollars to lobby Congress to take away workers' health and safety rights.

The company has set up and promoted phony safety committees that are controlled by management.

Instead of taking steps to prevent accidents, UPS blames them on employees' "bad work habits."

The Teamster Solution

The Teamsters union has proposed a solution that will save our members' backs and still allow the company to deliver packages on time.

Heavy packages should be handled the same way as other transportation companies do. Packages that weigh over 70 pounds should be segregated from the regular sort and delivery. And UPS should provide appropriate freight handling equipment and dock facilities. It that's simple.

It's Our Contract
WE'LL FIGHT FOR IT!